swers of the defendants, that any serious, or indeed, any objection is made to this prayer, the ground taken in the answer being, that the delay of the plaintiff in this case in bringing forward the evidence of the payments, and the release, ought to subject him to a proportion of the expenses incurred by the complainant, in the case in which the decree passed.

The decree referred to, and which this bill seeks to open, and set aside, was passed during the sittings of the March term last, and though the bill in this case was not filed until after the close of the *sittings* of that term, it was filed before the end of the term, which did not expire until the commencement of the then ensuing July term, and, consequently, before the decree was enrolled, and whilst it remained under the control of the court. *Burch* vs. *Scott*, 1 *Gill & Johns.*, 393; *Hatton* vs. *Weems*, 12 *Gill & Johns.*, 104.

The court then having the right to open, and vacate or reform the decree, no difficulty would be felt in doing so, under the circumstances of this case. Even if the answer objected to it, which, however, it does not, the defendants only insisting that the plaintiff, for the reasons stated, should pay some proportion of the costs in the former case. There is some little difficulty in adjusting this matter of costs, but I am of opinion, that the most equitable settlement of the question will be, to leave the parties in both cases to pay their own costs. Crawford, upon the payment in full to him, should have discontinued proceedings in the first case against the land purchased by the complainant in this case, and this complainant is in some default, in keeping from the knowledge of the defendants in this case, his receipts and release, until May, 1848, when he first communicated with them upon the subject, a decree will be passed accordingly.

JOHN C. GROOME for Complainant.
JAMES MALCOLM for Defendants.