

The court, on such a motion, gives credit to the answer only so far as it is responsive to the case stated by the bill on which the

The injunction, in this cause issued, was granted merely on the ground of the complainant's stating himself to be liable to be executed at law for much more money than was fairly due. As to the other ground stated in the bill, viz: that there was no just foundation for the judgment at law, the Chancellor long since gave his opinion, that if this be the case the complainant ought to have availed himself of the point in the General Court.

The Chancellor perceives not the least foundation for relief in this court; except what is stated by Williams, the defendant, viz: the payment to him of £112 10s. by Mrs. Howard, &c. For this sum the complainant is certainly entitled to credit.

On the whole it is DECREED, that the injunction, in this cause issued, be and it is hereby declared to be dissolved; provided, that not more be levied by execution at law against the complainant by the defendants, than the sum of three hundred and thirty pounds fifteen shillings and eleven pence, with the legal interest of six per centum thereon, from the first day of October, seventeen hundred and ninety-six, until the time of levying or payment. It is further *Decreed*, that each party bear the proper costs.

In stating the account the Chancellor has charged *ten per cent.* interest to May 1st, 1796, as the date of the judgment. The aggregate sum is £432 9s. 8d. and six per cent. = £10 16s. 3d. is charged thereon to October 1st, 1796, when credit is given for the payment as stated by the answer of £112 10s. It is the balance with interest of *six per cent.* which is to be levied. It did not appear to the Chancellor, that the *ten per cent.* could be charged after judgment; but that whatever was due at the time of the judgment should form a principal on which *six per cent.* only should be charged. (*Hammond v. Hammond, 2 Bland, 370.*)

The following is the statement made by the Chancellor:

October 1st, 1790, principal sum due, . . . . .	£277 10s. 7½d.
May 1st, 1796. Date of judgment, interest thereon of 10 per cent. . . . .	154 19s. 0¼d.
Total, . . . . .	£432 9s. 8d.
October 1st, 1796, interest of six per cent. . . . .	10 16s. 3d.
	£443 5s. 11 d.
By cash, . . . . .	112 10s. 0d.
	£330 15s. 11d.

N. B. This case was submitted for *final decision on the bill, answer and exhibits*. So that, in fact, no defence against Williams' claim has been made. And the answer, according to the established principles of this court, is to be taken for truth; and the allegations of the bill on oath, although sufficient for obtaining the injunction, in the first instance, avail nothing on final hearing. The Chancellor makes this remark for the satisfaction of the complainant, who thought proper to send him a private letter relative to the suit; and which letter could not, with propriety, have any influence on the mind of the Chancellor; who, in all cases, is to decide from the bill, answer, and proofs; and not from the bare allegations of the parties. There is one remark which might have been properly made in the decree. The answer states a debt due to Williams, on his private account, as well as the debt due to the trustees; and it does not appear, that Mrs. Howard directed the application of her payment to be made to the latter debt. It does not then appear, that Williams did otherwise than right in making the application to his own claim, as any other man might honestly have done in his case—M. S.