

It was in these characters, that it presented itself to the mind of the Chancellor, when it was first laid before him. He then felt, as he still does, a strong impression, that these different characters and alternative aspects, and prayers, were so entirely incompatible, as to be incapable of being blended together in the same bill; *Perry v. Phelps*, 17 Ves. 176; but he conceived, that if it could be sustained in all, or any of them, the parties complaining would be entitled to relief. And, under this impression, it seemed to him fit and proper, to suspend, at least for a season, the execution of the decree, until these matters could be more carefully canvassed, and both parties could be heard. And therefore it was, that he passed the order of the 16th of November last; which operated as an injunction, and was intended so to operate. (g)

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(g) Restrictive orders, staying the execution of the Court's own decree, so common in England, have always there, *Edm. Inj.* 209, as here, been considered as injunctions, and been treated accordingly, *Norwood v. Norwood*, MS. 1808.

CLAPHAM v. THOMPSON.—This was a bill to account, &c., filed on the 22d of September, 1787, praying for relief, and also for an injunction to stay a sale under a *fiery facias* from this Court. Upon which was passed the following order:

ROGERS, C., 22d September, 1787.—On the bill of complaint exhibited in this Court by Josias Clapham and Mary Carey, against Cornelius Thompson, John Thompson, and Ann McDonald—it is ordered by the Chancellor, according to the prayer of the said bill, that the sales of the property of the said Josias Clapham and Mary Carey, taken by the sheriff of Frederick County, by virtue of a *fiery facias* issued from this Court in the names of Cornelius Thompson, John Thompson, Angus McDonald and Ann his wife, against the lands and chattels of the said Josias Clapham and Mary Carey, and advertised for sale on the twenty-fifth instant, be stayed; and that the sheriff of Frederick County forbear and desist from making any sale of the said property, or any part thereof, until further order of the Chancery Court. And it is further ordered, that the depositions of witnesses, taken before a single magistrate, be received in evidence in this cause, upon giving five days' notice to the adverse party.

Some time after which, the depositions of sundry witnesses having been taken, the case was again brought before the Court.

ROGERS, C., June, 1789.—Ordered, that an account be stated and taken between the parties; and that commission issue to Randolph B. Latimer and Robert Denny, as auditors, to state and take the said account; and that the said auditors apply to this Court for instructions in adjusting the said account, as occasion may require.\*

And the cause so standing continued until December Court, seventeen hundred and eighty-nine, a commission issued to the said auditors to state,

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\* In cases of payments made in bills of credit, it was declared, that the Chancellor might appoint his register or other person to state and adjust the claims, and to strike the balance. June, 1780, ch. 8, s. 17.