

156 sented * to it. And in the application of this maxim, there is nothing peculiar in the character of the Court, or in the mode of judicial proceeding, by which it can be at all affected or varied. It is a fundamental principle applicable to all Courts, and from which none are allowed to depart. The judgment of a Court of law is the legal result of the facts admitted by the parties, or found by the jury: and so too, the decree of a Court of Chancery is the result, according to principles of equity, arising from the facts found in the bill, answer, proceedings and proofs. Such is the acknowledged foundation of all final and general judgments or decrees. *Gilb. For. Rom.* 35.

But interlocutory orders and decrees affecting rights, must, so far as they go, have a similar basis; because, no Court of judicature can arbitrarily make a partial, any more than a total disposition of the rights of things or persons, without such a foundation. The Judge can go no farther than to apply the rule to the case, or to pronounce the law upon the facts, either partially or wholly. It is of the very nature of judicial power to be so limited. It is, however, of no importance, as regards this principle, how the facts are made to appear, or in what shape they are presented to the tribunal; whether by confession; by arithmetical calculation; by necessary deduction; or by positive and direct proof. It is enough that the facts are so placed before the tribunal as to preclude all further denial of them. The Court may then be called on, in cases like this, to pass an order, or, in other words, to pronounce the equity resulting from the facts. Such are the elementary principles. Let us now bring them near to the case under consideration.

In cases of this sort, it is not necessary that the party moving for the order, should shew an unquestionable right to a part, or to the whole of the money proposed to be called in. It is enough, that he shews an interest in the safety and final disposition of the funds. The general rule is, that the plaintiff is solely entitled to the fund, or has acquired, in the whole of it, such an interest, together with others, as entitles him, in his own behalf, and the behalf of those others, to have the fund secured in Court. *Freeman v. Fairlie*, 3 *Meriv.* 29.

A motion, by a party interested, to order money to be brought into Court, can only be founded upon the allegation, that the clear conclusion of law from the fact is, that the person, proposed to be called on, has no right or title whatever to hold the money of which he has the possession. And, therefore, the first inquiry is, are **157** there * any facts, then to be found in the cause, warranting such a conclusion? and next; if there are, can the party be allowed, at any future stage of the proceedings, to contradict, or explain them away? It is not necessary to shew, that the person called on is a mere trustee, without any legal control over the