

The objects and inducements for making an interlocutory order, or partial decision of this kind, are to remove the fund out of danger; to place it in a state of the greatest security for the benefit of all concerned; and, by circumscribing the field of controversy, to accelerate the further progress of the case, and save costs; since it is evident, the parties will spin it out while they have the advantage of keeping the money. *Roberts v. Hartley*, 1 Bro. C. C. 56; *Gordon v. Rothley*, 3 Ves. 572.

Hence it appears, that those who make this motion, must shew, that, however much more may be due, they have an interest in the sum of money proposed to be called in; and that he who holds it in his possession, has no equitable right or title to it whatever. And the facts on which these petitions are to be based, must be found in the case as it then stands, either admitted, or so established \* as to be open to no further controversy at any subsequent stage of the proceedings. *Montgomery v. Clark*, 2 **160** Atk. 378; *Rogers v. Rogers*, 1 Anst. 174; *Quarrell v. Beckford*, 14 Ves. 177; *Vigrass v. Binfield*, 3 Mad. 62; *Rothwell v. Rothwell*, 2 Sim. & Stu. 217.

These principles being settled, the next inquiry is, how far the Court may allow itself to range through this case in search of those facts, which are to be thus taken as admitted or established. The plaintiffs contend, that the answer of a co-defendant, and certain exhibits and proofs, taken in express reference to this motion, should be read and considered. On the other hand, the defendant Thompson urges, that the very satisfactory explanations of what he calls his supplemental answer; or at least, that matter stated in his petition, filed on the 31st of January last, as the substance of a supplemental answer, which he ought to be permitted now to file, should be taken into view. All these matters must be disposed of before we can safely undertake to bring together what may be considered as the admitted, or established facts in relation to this motion.

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during the present term without any exception being filed thereto, is liable to be confirmed, or otherwise acted on without further notice. And it is now taken up, on motion of the complainant. The balance reported as due from or in the hands of the defendants, Owens & Smith, is \$13,925.29. Against this there are some further credits, which are extended, but not yet established or allowed, which, if allowed, would reduce the balance to \$11,837.35.

On the present state of the accounts, it is ordered, that the said Owens & Smith do forthwith deposit in the Farmers Bank of Maryland, to the credit of the estate of William Robb, the sum of \$13,337.35, which will be liable to a deduction and return of the further credits for expenses and commission, if allowed, and also the sum of \$1,509, claimed on account of A. Stewart, if established. The balance then remaining will be subject to the order of the Court, on a further report to be made by the auditor as to the claim of the creditors, including the defendants.