in of the answer of the defendant John F. Gittings, and until further order.

The defendant Magill, by his petition, referring to the previous proceedings, stated, that the defendant Gittings, for a long time previous to the filing of the bill, and then did reside out of the limits of this State; which, as he believes, was known to the plaintiff when she instituted this suit; and yet, she had not stated the fact in her bill and prayed for an order of publication, in place of a subpœna against him; whereupon the petitioner prayed, that the plaintiff might be compelled to proceed against the defendant Gittings without delay, &c.

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the complainant for a final decision. Had the complainant made such a submission, it would have amounted to a total abandonment of his application for relief, because in case of such submission, as has already been said, every part of the answer would be considered as admitted; and no part of the bill, except what is admitted by the answer, would be of any avail. Of course the decree would be for immediate dissolution and dismission of the bill.

The injunction was granted on two grounds. The bill alleged, 1st, an agreement in writing of the deceased to take only three per cent. interest, instead of six, for which judgment is entered; 2d, the payment of a sum for which no credit is given. The answer does not expressly deny the agreement, although the defendants say they do not believe that it ever existed. As to the payment, which is the most substantial ground, the answer says not a syllable. How then is it possible, on the present motion, to expect an order for dissolution.

The Chancellor has taken the trouble of giving a full explanation; because it is his custom, aim, and wish, to have the principles and practice of this Court understood, and particularly where some of the parties are not residents of this State.

As the counsel complains of delay, and mentions the anxiety of his clients to obtain an early termination of this cause, the Chancellor must aver, that little delay has proceeded from this Court. He will go further, as he conceives he may do with propriety, and suggest what is proper to be done for expediting the cause. The defendants may obtain a rule for further proceedings, &c. This will either oblige the complainant soon to take out a commission, or will soon put him out of Court. And if a commission be taken out, a little diligence and vigilance on the part of the defendants will obtain an early return of the commission; or put it in their power to shew, that delay is sought by the complainant.

Now in cases of injunction, obtained on filing the bill, the Chancellor has always thought it his duty to discourage, as much as he could, consistently with a fair administration of justice, all studied or needless delay on the part of the complainant.

It is ordered, that the injunction in this cause heretofore issued, shall continue until final hearing or further order.

After which, on the 17th of December, 1803, by direction of the plaintiff, the injunction was dissolved, and the bill dismissed with costs.