It is true, that the present complainant had it in his power to contest the suit more fully than he has done, and if he was concluded by his neglect, there would be an end of the case. But wherever there is an agreement to allow for payments or deductions, it furnishes a ground for the interference of a Court of equity. And so where a verdict is entered by surprise or mistake, the latter of which is admitted in this case. And the Court of Appeals has gone much further in relieving against the verdict of a jury, or the confession of judgment.

In noticing the answers of the counsel in the suit at law, I have to observe, that I am not satisfied as to the necessity of making them parties to this suit; and if they were proper parties, they were not bound to answer beyond what related to themselves. But as to all the answers, in a motion to dissolve an injunction, the facts set forth alone are to be considered as established thereby, and not the opinions or conclusions of law drawn by the defendants from the facts; much less the reasoning in them.

It is a ground of equity in the bill, that Chase was not bound to give his notes, or make payment of the $6,000 to Bryden, until the previous conditions were complied with. The tender of value, &c. on behalf of Bryden, does not affect this equity, inasmuch as it was accompanied by a demand of the notes, which, after the attachment was laid, he had no right to demand. As to Manhardt himself, (independent of the verdict irregularly entered,) supposing the claim to have been such as could be attached, he had no right to be put in a better situation than Bryden, or to put Chase in a worse situation as to the debt, or as to the terms on which it was to be paid. If the injunction should now be dissolved, after deducting the excess in the verdict, as proposed by the counsel for Manhardt, the complainant might be left without remedy, if the instruments of writing, now filed, should be insufficient; which will be a question proper to be determined on final hearing. But the complainant claims also a deduction of the interest charged in the verdict; on which, though it was not considered as the ground for the injunction in the order passed, he has a right to a decision, as it is not admitted, but strongly contested.

336 * This brings the case within the rule laid down in the suit by *Colegate* against *Lynch*, 2 *H. & J.* 34; that when a proper ground for the injunction is admitted by the answer, and there still remains a dispute between the parties, the injunction is universally continued. Here the admission is made by the answer of D. Hoffman, read and relied on by himself as counsel for Manhardt, thereby removing the exception to it as evidence against Manhardt; and the mistake and over-charge was admitted by him in the argument, which would be within the same reason.

It is thereupon adjudged and ordered, that the injunction be and the same is hereby continued till final hearing or further order.