

mind is brought to the conclusion, that the defendant, Charlotte Spencer, had, at the time of her marriage with her late husband, Abel Spencer, some money of her own, and, that he knew of it, and was willing, and consented, that it should be held and invested by her, as her separate estate. Putting aside the answer of Sarah Rebecca Marriott, the trustee, mentioned in the mortgage deed from Waters, and who expressly states, that she held this money as trustee for Mrs. Spencer, and that her husband knew of it, and approved of her loan to Waters, the answer of Mrs. Spencer, which is conceded to be responsive to the bill, shows clearly, that she was in possession of this money at the period of her marriage, and that the disposition made of it, as her separate estate, met with the full concurrence and approbation of her husband.

It is true, this answer is but evidence, and may be overcome by that weight of opposing proof which the chancery rule in such cases requires, that is, by two witnesses, or one witness and strong corroborating circumstances, but, in my opinion, the complainant has not succeeded, in this case, in producing that kind of evidence which the rule referred to requires. On the contrary, without going into details, I am persuaded, the proof in support of the answer, so far as this particular question is concerned, is stronger than that relied upon to overthrow it.

The complainant's solicitor pressed upon the court the circumstance, that though Mrs. Spencer had, in her answer, spoken of this money as having been, from time to time, placed in the hands of various depositories, she had failed to prove the truth of her answer in this respect, from which an inference unfavorable to the truth of her statement was attempted to be deduced. It is obvious, however, that this argument is open to the observation that it was in the power of the complainant, if he had reason to doubt the statement of the defendant upon this point, to have ascertained the precise truth in regard to it, by himself examining the persons and the officers of the institution in which the money, according to the answer, had, at various times been placed, and his not having done so, may perhaps with more reason create the inference that he was satisfied that such an ex-