

According to that settlement, the complainant appears to have been indebted to the defendant, on that day, in the sum of \$7,685 98, and to this was added, under the circumstances which the record discloses, the sum of \$1,936 34, whereby the amount was increased to \$9,632 32; and on the same day it was agreed that this claim should be released, in consideration of a transfer by the complainant and his trustees to the defendant, of an amount of the complainant's stock in the Company representing said sum. The agreement, though dated the 1st of June, 1844, was not carried into effect until the 20th of the then ensuing July, the delay being caused by the necessity of procuring the signatures of the requisite number of shareholders, according to the requirements of the charter. But these being obtained, the complainant, together with his trustee, on the last-named day, did transfer to the defendant the requisite amount of stock; that is to say, an interest representing the sum of \$9,632 32, and thus the agreement on both sides was consummated.

But it now appears, as the result of the accounts stated by the Auditor, under the directions of this Court (which accounts are to be confirmed), that the sum actually due from the complainant to the defendant, in June, 1844, instead of being \$9,632 32, was only \$4,764 06, and that consequently there has been an over-payment of \$4,868 26, and the question is as to the character of the decree by which the complainant is to be redressed.

In his bill he alleges that the capital stock of the Company, which in the year 1839 amounted to \$108,200, being reduced by the merger of \$9,632 32 of the complainant's stock, was, after the transfer of that stock, brought down to \$98,567 68, and the prayer is, that an account may be taken, under the direction of the Court, of the transactions specified in the bill; and if on said accounting any balance should be found due the complainant, payment thereof may be decreed, and a re-transfer of the stock awarded him, and if any balance is ascertained to be due from him to the Company, he may be declared en-