

furnished with sufficient data to test the correctness of that judgment, even if it were now open to investigation. But it is stated in *Manhardt's* answer, and was not denied by *Bryden*, who was fully and actively represented, when the judgment of condemnation was obtained in the attachment case; nor is it now denied by *Bryden's* representative, who is a party to this suit, that *Manhardt's* judgment against *Bryden* amounted at that time to \$9,326 62. This matter must therefore be now considered as finally and conclusively settled. *Manhardt's* judgment against *Bryden* cannot now be questioned in any way; particularly by this complainant as garnishee; and in whose present bill there is no allegation which involves its validity and correctness. I therefore lay aside every thing that has been said upon that subject.

There can be no doubt, that this court may set aside a verdict that has been obtained by surprise or fraud, and grant a new trial. But, has there been any surprise or fraud in this case? By the docket it appears, that there was an appearance entered for the garnishee; and, that two attorneys were noted in the usual manner as appearing in the defensive. It is certain, that one of them, *John Purviance*, had his name thus entered for the purpose of protecting the interests of *Bryden*, the defendant, and of *Kyd*, who were his clients. It is also certain, that he put in the pleas of *nul tuel record*, in defence of *Bryden*, and *nulla bona* in behalf of the complainant *Chase*; and, that he had full, free and frequent conversations with *Chase*, the complainant, respecting the attachment while it was depending; who never once, in all that time, told him, that he, *Chase*, had any just grounds of defence for himself against the claim founded on his contract with *Bryden*. It is not distinctly shown for whom *Luther Martin*, the other attorney, appeared. But it is clear, that they were both willing, and either of them might have made for *Chase* any defence he might have instructed them to make. Indeed it appears, that interrogatories were propounded to him, as garnishee, which he answered;—and, consequently, that he not only had an opportunity to defend his interests in that cause, but was actually invited to spread his defence upon the record. Those interrogatories and answers are lost. The exceptions to the answers are, however, here; and among other things they say, that *Chase* did not file the original papers; and, that it did not appear with sufficient certainty, whether the balance of the purchase money due to *Bryden* was due from him, (*Samuel Chase*,) or from the said *Richard M. Chase*.