

sarily involves the merits of the whole case, as set forth in the bill; it may be, and not unfrequently is, much narrower; because this court recognizes the distinctions between the case on which the injunction rests; the material head of equity which entitles the plaintiff to an injunction; (b) and that which forms the whole foundation of his prayer for relief; which, although often, are not necessarily one and the same case; and therefore, this question, on a motion to dissolve, properly extends only to the equitable grounds of the injunction and no further. (c)

If the answer expressly denies all the facts stated in the bill, or such a material part of them as leaves not enough to furnish an equitable foundation for the injunction, it must be dissolved. If, on the other hand, the defendant does not deny, or omits to respond to those facts which constitute the case on which the injunction rests; it must be continued. Hence, no matter, advanced by way of avoidance in the answer, is to have any weight on a motion to dissolve, any more than if it had been adduced in the form of a plea. Such matter in either shape, if sustained by proof, or admitted by setting the case down for final decision on bill and answer, may be a sufficient defence at the hearing, but it cannot, in either of those modes, be shewn as cause for dissolving the injunction on an interlocutory motion made for that purpose. (d)

(b) 1 Fowl. Exch. Pra. 226.—(c) Doe v. Roe, 1 Hopk. Rep. 276.—(d) Simson v. Hart, 14 John. 74; Skinner v. White, 17 John. 367.

BEARD v. WILLIAMS.—In an action brought by the State for the use of the Trustees of the Poor of Anne Arundel county, upon a collector's bond, he being dead, against his sureties for not having paid over the money which had been assessed, and was collected by him for the use of the poor, a judgment was obtained in the General Court at May term, 1796, to be released on the payment of £277 10s. 7½d. current money, with interest of ten per cent. from the 1st of October, 1790, and costs. These trustees were made a body politic by the act of 1768, ch. 29. And the collector's bond was given under the act of October, 1780, ch. 26, (Hanson's Laws,) by which it is provided, that, in case the collector shall fail to pay the moneys collected, his bond may be put in suit, in which proceedings may be had to compel payment of the money due with an interest of *ten per cent.*, from the day appointed for payment, (1794, ch. 53, s. 2, a similar provision except that only six per cent. is to be recovered.) The defendants at law, Matthew Beard and others, filed this bill, alleging, that the trustees, James Williams and others, had not given to their principal, the late collector, all the credits to which he was entitled; and that the trustees had not been legally elected; and, therefore, they were neither entitled to sue for or receive the moneys collected. Whereupon they prayed an injunction, which was granted.

The defendants answered, and the case was brought on for a final hearing.

10th March, 1800.—HANSON, Chancellor.—This cause being submitted on the bill, answer and exhibits, the same were by the Chancellor read and considered.