

peculiar to our chancery proceeding, for I have met with no mention of any such practice in the English books. It is, however,

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The bill and the answer are both so drawn, that it is difficult to determine whether or not McComas has denied the equity stated in the bill. However, it appears from the bill material, for the complainant to get an answer from Smith. As that answer has not been given, and as Smith appears from the proceedings, to be the defendant alone interested, at this time, in the judgment obtained against the complainant; it is *Ordered*, that the injunction be continued until the final hearing or further order.

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After which, the defendant Smith put in his answer; and gave notice of a motion to dissolve the injunction at the next term, when the matter was brought before the court.

2d July, 1802.—HANSON, *Chancellor*.—The Chancellor having considered the answer of Thomas R. Smith; and the said Smith not denying the material facts stated in the bill; it is *Ordered*, that the injunction heretofore issued in this cause, continue until final hearing, or further order.

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After which, the case was again brought before the court.

20th July, 1802.—HANSON, *Chancellor*.—The Chancellor has twice considered this case, and each time on a motion to dissolve; the two answers having been filed at different times.

It appears, on account of some peculiar circumstances stated in, or collected from the proceedings, that each party should be desirous of having the cause speedily decided on its merits. What proceeding is first to be had for that purpose, may possibly be doubtful to the counsel. The Chancellor conceives, that the best thing to be done for both parties, would be to have an order to state an account between Onion and McComas, as matters stood on the day of the assignment of the bond; and likewise as they stand at this time, without regarding the assignment of the bond to Smith; and for the auditor to examine witnesses, if any shall be produced; for the said account, when stated, to be liable to exceptions; and the question, or questions of equity are reserved.

The Chancellor thinks it much better to have such an order by consent, than to issue a commission, on application, and on his own authority, for taking depositions; and he is positive, that neither party, if desirous of a speedy decision on the real merits of the cause, will reject his proposal. If they shall agree to it, let them, or their solicitors, or either of them; and the solicitor of the other, sign the writing subjoined.

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We consent, that an order pass conformably to the foregoing recommendation or proposal of the Chancellor. This writing was signed accordingly.

Sundry depositions having been taken and returned, the case was submitted for a final determination.

12th November, 1804.—HANSON, *Chancellor*.—The papers in this cause have often been laid before the Chancellor, and as often he has acted on them, as his judgment dictated. They are now laid before him, as for a final decision, depositions having been returned.

The Chancellor refers to his remarks and propositions of July 20th, 1802, which appear to have been agreed to by the counsel. Agreeably to that proposition and agreement, as soon as the depositions were returned, they ought to have been laid before the auditor. After lying several terms in the office, the papers are now laid