Young *v.* Grundy.

Appeal.—Dissolution of injunction

No writ of error or appeal lies to an interlocutory decree dissolving an injunction.[1]

If the answer neither admits nor denies the allegations of the bill, they must be proved on the final hearing; but upon a question of dissolution of an injunction, they are to be taken to be true.[2]

This was an appeal from an interlocutory decree of the Circuit Court of the district of Columbia, dissolving an injunction.

E. J. Lee, for the appellant.—The decree dissolves the injunction with costs; which is a final decree as to the costs. *Davenport* v. *Mason*, 2 Wash. 200.

The material facts of the bill are not denied nor admitted by the answer; they are, therefore, to be taken as true. The court below must, therefore, have proceeded on the ground, that the original equity between the maker and payee of the note did not affect the indorsee.[3]

Marshall, Ch. J.—If the answer neither admits nor denies the allegations of the bill, they must be proved upon the final hearing. Upon a question of dissolution of an injunction they are to be taken to be true.

*52] But the court has no doubt upon the question. *No appeal or writ of error will lie to an interlocutory decree dissolving an injunction.

Writ of error dismissed, with costs.

Ex parte Wilson.

Habeas corpus.

The writ of *habeas corpus ad subjiciendum* does not lie, to bring up a person confined in the prison-bounds upon a *ca. sa.* issued in a civil suit.[4]

Wilson petitioned the court for a writ of *habeas corpus*, and a *certiorari*, to bring up the record of a civil cause in which judgment had been rendered against him, upon which a *ca. sa.* has issued, by which he was taken and was now in confinement within the prison-bounds upon a prison-bounds bond. His petition stated, that the marshal had demanded of the creditor the daily allowance for the prisoner, agreeable to the act of congress, concerning insolvent debtors within the district of Columbia (2 U. S. Stat. 240, § 15), which the creditor had refused to pay, in consequence of which the marshal had no longer any authority to detain him.

The act of congress provides that the circuit court of the district of Columbia shall, by a general order, fix the daily allowance for the support of prisoners in execution for debt in civil suits, and that "no person, taken in execution for debt or damages in a civil suit, shall be detained in prison therefor, unless the creditor, his agent or attorney, shall, after demand

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[1] Gibbons *v.* Ogden, 6 Wheat. 448; Hiriart *v.* Ballon, 9 Pet. 156; McCollum *v.* Eager, 2 How. 61; Verden *v.* Coleman, 18 Id. 86.

[2] Poor *v.* Carleton, 3 Sumn. 70.

[3] For a decision on the merits, see 7 Cr. 548.

[4] Wilson *v.* The Marshal, 1 Cr. C. C. 608. See Ex parte Randolph, 2 Brock. 448; Ex parte Reardon, 2 Cr. C. C. 639; Ex parte Robinson, 1 Bond 39.