

conveyances were concocted in fraud, with the intent and purpose of cheating the plaintiff, and other of the creditors of the defendant Jasper Peddicord, and of avoiding the payment of his just debts; that the defendant Jasper was not indebted to the defendants

448 Jeremiah and Asbury the consideration mentioned * in those conveyances at the time of their execution; nor was the consideration money mentioned in them ever paid by the grantees to the grantor; but that they, combining and confederating, executed those conveyances for the purpose of defrauding the plaintiff and others of the creditors of the defendant Jasper Peddicord. Whereupon the bill prayed, that those conveyances might be set aside as fraudulent; that the land therein mentioned might be sold for the payment of the plaintiff's judgment; and that the plaintiff might have such other and farther relief as might be deemed just and equitable.

To this bill each of the defendants on the 18th of February, 1830, put in a separate answer; they each admitted the execution of the conveyances mentioned in the bill, and gave some account of the considerations on which they were respectively made. The plaintiff took exception to each of them; and all coming on to be heard at the same time; all the exceptions were sustained, and, by an order, passed on the 22d of March, 1830, each defendant was required to make and file a good and sufficient answer to the bill of complaint on or before the 22d of April then next, and to pay the costs of the exception, including a solicitor's fee.

BLAND, C., 27th April, 1830.—This case standing ready for hearing, on the default of the defendants to answer as required by the order of the 22d of March last, and having been submitted by the plaintiff on a motion to have the bill taken *pro confesso*, and a final decree passed, the proceedings were read and considered.

The course of proceeding against a defendant whose answer, on exceptions, has been held insufficient, does not appear to be clearly and generally understood. I shall, therefore, avail myself of this occasion to explain the mode of proceeding against a defendant who has contumaciously neglected to answer, or who has failed in an attempt, by a demurrer or plea to protect himself from answering as the bill requires; or who, after such answer put in by him has been held, upon exceptions, to be insufficient, has failed to make a good and sufficient answer, as ordered.

The ancient practice of having the bill first filed, and directing process to be thereupon issued, as prayed, to bring in the defendant to answer, having been improperly departed from, it very often happened, that a defendant was vexatiously brought into Court, as for a contempt in not answering, long before the complaint to which * he was required to make answer was exhibited, and made known by the plaintiff. This was a griev-

449