

thinking, I am of opinion, that the complainant having thought fit to make him a defendant and examine him in that form, must be content to take his answer as evidence against him, so far as it is responsive to the allegations of the bill.

On the ground, therefore, of the insufficiency of the proof, to establish a fraudulent intent on the part of the defendant, Childs, in the execution of this deed, the Chancellor passed a decree, dismissing the bill, but without cost.

[No appeal was taken from this decree.]

THOMAS T. WHEELER'S }
ESTATE. } SEPTEMBER TERM, 1847.

[CHANCERY PRACTICE—CONTRIBUTION AMONG JOINT OBLIGORS—ASSIGNMENT OF JUDGMENT.]

WHERE a case is set down for hearing on bill and answer, all the averments of the latter, whether responsive or not to the allegations of the bill, are taken to be true.

Three joint obligors in a single bill, though jointly and severally liable to the creditor for the whole debt, are, as among themselves, each bound to contribute one-third; because each must be supposed to have received that proportion of the consideration, upon which the obligation was given.

One of such obligors who has received from another a sum of money or other property, equal in value to the proportion of that other in the common burden, and released him from all liability on account thereof, must be supposed to have received a consideration equal to two-thirds of the debt, and must be charged with that proportion, in adjusting the equities between himself, and the remaining obligor.

The third obligor, who has been compelled by the creditor to pay a sum exceeding his one-third, will be allowed at once in equity, and without circuits, to go against the party thus supposed to have received two-thirds of the consideration of the debt for such excess.

The obligor who has paid the judgment of the creditor, and taken an assignment thereof to himself, may use such judgment for his indemnity, so far as it clearly and certainly appears, that his co-debtor ought to contribute.

[Thomas T. Wheeler, on the 19th March, 1844, executed to Richard J. Bowie, a conveyance of all his property, real, per-