

WASHINGTON RIDER
 vs.
 ADDISON B. RIELY AND OTHERS. } DECEMBER TERM, 1849.

[STATUTE OF FRAUDS—RULES OF EVIDENCE.]

THE statute of frauds does not apply to a case where a complainant seeks to compel a defendant to pay his own debt to the party to whom his creditor has assigned it, but to entitle the complainant to relief, he must prove that the assignment was made, and that the defendant had notice of it. This case is to be distinguished from the case where an attempt is made to charge a person with the debt of another, which can only be done in writing, and upon the consideration expressed in the writing itself.

A defendant who submits to answer, must answer fully and explicitly, and may be pressed by exceptions until he thus answers. And a complainant who objects to an answer because it is not sufficiently full and explicit, must have recourse to this method to bring out what is concealed or kept back.

Where an answer explicitly denies the fact upon which the equity of the complainant's claim for relief rests, its weight and effect can only be overthrown by two witnesses, or one with pregnant circumstances.

[The facts necessary to an understanding of this case are fully set forth in the Chancellor's opinion.]

THE CHANCELLOR :

This case, which originated in a bill filed on the equity side of Baltimore county court, has been argued by counsel, and fully examined and carefully considered by the court.

The defendant Riely has filed exceptions to the averments of the bill, and also upon the ground of the absence of other averments, supposed to be essential to the complainant's right to the relief prayed by him. But without deciding upon these exceptions, and assuming the bill to be unexceptionable in its structure, I shall proceed very briefly to examine the complainant's right to a decree, upon the merits of the case, as disclosed by the evidence and pleadings.

If the case presented by the bill be such as the complainant's counsel insists it is, and as I shall assume it to be, the statute of frauds relied upon in the answer of Riely, is no defence. It is not upon this assumption,—an attempt to charge the defendant with the debt of another,—which can only be done in writing, and upon a consideration expressed in the