EVIDENCE—*Continued.*

13. This rule is founded not on the ground of interest, but of policy, and extends to cases, where the wife was afterwards divorced from the husband. *Ib.*
14. The only exception of this rule which was formerly recognized, was, where the husband commits an offence against the person of his wife, when, *ex necessitate*, the wife may make an affidavit against her husband. *Ib.*
15. The parol declarations of the husband, that he had obtained a receipt from his wife, who was one of the legatees in the will, as a matter of form, to enable him to settle an account as executor in the Orphans' Court, and not upon actual payment, made at the time of settling, were held to constitute a part of the *res gestæ*, and as such, admissible to contradict and overthrow the receipt, though they might operate in favor of the wife. *Ib.*
16. Parol proof cannot be offered to change or contradict the terms of a deed, or contradict, in writing, upon the ground of fraud, surprise or mistake, unless appropriate allegations are contained in the will. *Hertle* vs. *McDonald*, 128.
17. Evidence of declarations made by a vendor, after a sale, out of the presence of the vendee, in reference to the title of the thing sold, are inadmissible. *Lark* vs. *Linstead*, 162.
18. The answer of one defendant, in chancery, is not evidence against a co-fendant, claiming title under the former, for the reason that the party against whom the answer is proposed to be read, would be deprived of the benefit of a cross examination. *Winn & Ross* vs. *Albert & Wife*, 169.
19. The answer, when responsive to the bill, though uncontradicted, cannot be taken to establish anything in bar of the relief prayed, which *parol* testimony would not be admitted to prove, for it is as *evidence only* that it is received. *Ib.*
20. A party who relies upon a judgment, is not restricted to the record itself, but may show, by evidence, *dehors*, what matters were litigated between the parties and decided by the court. *Hughes* vs. *Jones*, 178.
21. The complainant, the administrator of A., who died in 1821, recovered in May, 1839, in an action of detinue, several negro slaves from the defendant, the administrator of B., and then filed a bill in equity for the recovery of their hires and services from the death of A. In the pleadings in the action at law, the parties do not appear in their representative characters, HELD—

    That it was competent for the complainant to show by evidence, that the title to these negroes, as derived by the parties from their respective intestates, was put in issue, and decided in the case at law, and, therefore, the time of the institution of that action, the verdict and judgment are conclusive between them. *Ib.*
22. Yet the effect of this recovery is not, by retro-action, to be considered as concluding the parties from all examination into the title, from the death of A., in 1821. *Ib.*