

the answer, and the complainant may avail himself of it at the hearing, to the same extent as if no such death had occurred.

Where a creditor's bill, besides the averments of the indebtedness of the deceased debtor, and that he left no personal estate, alleges that no letters of administration had been granted thereon, the admission of this allegation in the answer dispenses with the necessity of producing the proof that would be otherwise required.

A debtor being entitled to the remainder in certain real estate, after the determination of a life estate of his mother therein, died during the lifetime of his mother; **Held**—that his interest in this land could be sold for the payment of his debts, the personalty proving insufficient.

The Act of 1785, ch. 72, which authorizes the real estate of a deceased debtor to be sold to pay his debts, when the personalty is insufficient, does not require that such debtor should die *seized* of the real estate proposed to be sold; the words of the Act are, if he "*shall leave real estate which descends,*" &c.

A creditor's bill, after averring that the deceased debtor was in his lifetime seized of certain real estate, devised to him by his father, subject to a life estate of his mother therein, and that he died before his mother, leaving no personal property, alleged that the complainant is entitled to have his debt paid out of the real estate of the debtor in the hands of his heirs, or to which he may be entitled in remainder, as aforesaid; **Held**—that this allegation was sufficient to entitle the complainant to a decree for the sale of such real estate.

The intervention of a freehold estate, between the possession and the remainder, prevents the owner of the latter from being seized, and, in the case of real estate, claimed by descent, would prevent the remainder-man from becoming the stock of inheritance, though not if acquired by purchase.

Where a deed has been traced into the hands of the complainant, the defendant cannot offer parol evidence of its contents, without first giving notice to the complainant to produce it.

A joint claim against the complainant and another cannot be set off against a debt due to the complainant individually.

The rule at law and in equity is the same, that the right of set-off must be reciprocal, and that mutual claims and such as are in the same right, can alone be set-off.

[The bill in this case was filed by Thomas Robertson, on the 11th of August, 1846, for the sale of the real estate of Edward Parks, deceased, for the purpose of paying his debts. The allegations of the bill and answers, with all the facts of the case, are sufficiently stated in the opinion of the Chancellor. The original defendants to the bill were the brothers and sisters of the deceased, all of whom were adults, and some