

ALONZO LILLY
 vs.
 JOSIAH KROESEN. } SEPTEMBER TERM, 1851.

[PARTNERSHIP.—CONSTRUCTION OF CONTRACT OF DISSOLUTION.]

WHERE a partner seeks to discharge and falsify a settlement of the partnership affairs, upon the ground of error or mistake, the *onus probandi* is on him to show the errors, otherwise the Court will take it as a stated account, and establish it.

Each partner has the right of full and free access at all times to the books of the partnership.

Where two partners adjusted their partnership accounts, upon full, complete, and truthful *data*, ascertained the proportion of the surplus to which each was entitled, and, by their written contract, deliberately prepared and signed, stipulated how, and from what source each should receive the sum due him, such a settlement cannot be discharged or falsified on the ground of error or mistake.

Where a contract of dissolution provided that the liquidating partner "should, from time to time, as assets may be received," pay to the other a certain sum, "to place him upon equal footing with" the former, and then divide the surplus in the proportion of one-third to the former and two-thirds to the latter, and the assets proved insufficient to make up this equality, it was HELD—

That the latter was entitled to recover from the former one-third of such deficiency, the former having received from the partnership before dissolution a certain sum, in regard to which the equality was to be made by payment to the latter of the sum stipulated in the contract of dissolution.

The contract also stipulated "that no interest is to be allowed or paid by or to either party from the date" of the contract. HELD—that this refers to all sums that may be paid to either party from the date of the contract, including that required to make up the *equality* above referred to.

[The facts of this case are fully stated in the opinion of the Chancellor.]

THE CHANCELLOR :

It appears by the proceedings in this case, that on the 1st of February, 1836, articles of copartnership were signed by certain parties trading under the name and style of Alonzo Lilly & Company, and the defendant, Josiah Kroesen, the new partnership thus formed to be called Josiah Kroesen &