

377, in which the complainant examined the insolvent as a witness, who testified that he did not confess the judgment complained of with a view or under an expectation or intention to take the benefit of the insolvent laws, the Court of Appeals not only refused to grant the relief prayed by the bill, but stopped the counsel who was to have argued for the appellee, the preferred creditor. And in *Dulany vs. Hoffman*, 7 G. & J., 170, it may perhaps be fairly inferred that, notwithstanding the very strong circumstances of that case, to demonstrate the intention to take the benefit of the insolvent laws, and to give the improper preference, the plaintiff would have failed if the answer of the insolvent had expressly denied the allegation of the bill charging such intention. The language of the Court at page 178, after quoting the allegation of the bill in reference to the intention, is "which is not denied by Hoffman, Beard and Co. in their answer, and Stinchcomb and Small (the insolvents), in their answer, which is responsive to every other part of the bill, pass by altogether that allegation, which leaves the impression that it was not answered, because it could not with truth be denied." "The allegation, it is true, is not evidence, but in the absence of all denial, we think it is sufficiently sustained by the facts and circumstances in the cause, made the more strong by the circumstance that Stinchcomb and Small, avoiding all notice in their answer of that allegation, expressly deny the immediately following allegation in the bill, that Hoffman, Beard and Co. colluded with them to gain an undue preference."

Although, therefore, the answer or testimony of the insolvent, if he is examined as a witness, may be overcome, even with regard to his intent in giving one creditor a preference over others, by facts and circumstances, still the attempt to do so is surrounded by impediments of the most formidable character, and nothing short of circumstances of the strongest description will justify the Court in disregarding the answer or deposition of the insolvent. It is not sufficient that an intent to give the favored creditor an undue preference is shown. It must also be shown that at the time the transfer