

## MAYER v. TYSON.

An answer held, on exceptions, to be insufficient, is as no answer.

If a defendant does not, after exceptions, put in a sufficient answer, as ordered, the bill may be taken *pro confesso* and a final decree passed; or the case may be prosecuted, as against the other defendants, to a final decree.

Under what circumstances, and at what stage of the case the plaintiff may be required to give security for costs.

This bill was filed on the 10th of December 1827, by *Lewis Mayer* and *Isaac Lohman*, of the city of Philadelphia, partners trading under the firm of *Mayer & Lohman*, against *Thomas Tyson*, *Richard H. Douglas*, *Christian Keller*, *Isaac Tyson jun'r*, *Nathan Tyson*, *Benjamin P. Moore*, *John Glenn*, and *Joaquim de Mier*.

The bill states, that the defendant *Thomas Tyson* had purchased of the plaintiffs a large quantity of rum and brandy, for which there was then due a balance of \$1425 54; that the defendant *Thomas*, being in an insolvent condition, had by a deed assigned all his property to the defendants, *Richard*, *Christian*, *Isaac*, *Nathan*, and *Benjamin*, in trust for the benefit of such of his creditors as should release their respective claims within a certain time; that these plaintiffs had not so released their claim; that the defendant *Thomas* had applied for and obtained the benefit of the insolvent law, under which the defendant *John* had been appointed his trustee; that the rum and brandy purchased by the defendant *Thomas* of these plaintiffs was in fact bought by him merely as the agent of the defendant *Joaquim*, who was in truth the real debtor to the plaintiffs; that the defendants who were the trustees of the defendant *Thomas* had brought suit against the defendant *Joaquim* to recover the amount due from him for the rum and brandy so purchased, with a view to have it applied, according to their trusts, in satisfaction of the creditors of the defendant *Thomas*. Whereupon the plaintiffs prayed, that, as the debt due from the defendant *Joaquim*, to the amount due to them, was properly owing to them, they might be first satisfied, &c.

All the defendants answered jointly or separately, except *Joaquim*, who being a nonresident, publication was made, warning him to appear, &c. To the answer of the defendant *Thomas* the plaintiffs filed exceptions; because of its being, as they alleged, insufficient in several specified particulars. Upon which it was ordered, that those exceptions stand for hearing on the 15th of