

fence, they had tacitly waived all such matters as were not set forth in their answer.

And besides, it is certain that a mere bill of discovery may be so amended, after the defendant has answered, as to pray for relief in this court; and it is an established rule, that in answering even such an amended bill, the defendant must confine himself to it alone, and cannot be permitted to put in a complete answer over again; and therefore, it is not only allowable, but necessary for the defendant's own safety, that he should set forth and rely upon his defence in his answer to such an original bill, lest it should be so amended as to make it necessary for him to sustain such a defence even in this court. (*f*)

I am, therefore, satisfied that a defendant, in making answer to a mere bill of discovery, must be permitted to introduce all matters in avoidance; and to take as wide a range, over the whole case, as would be allowed to him if the bill prayed for relief from this court as well as discovery; and that there is, in this respect, no material difference between a mere bill of discovery and a bill for relief.

This then is a case in which the plaintiff excepts to the defendants' answer; because it sets forth various matters which are impertinent; and also, because it attempts to control a written by a verbal contract.

It has always been the practice in this court, in all cases where either party excepts to the pleadings for impertinence, scandal, or insufficiency, to file the exceptions in writing, and then move for an order appointing a day for the hearing, on notice to the opposite party, or his solicitor. And all such exceptions, in the same case, may be brought to a hearing at the same time and together before the Chancellor, and disposed of at once, without delay or embarrassment. (*g*)

It is the duty of the court to take care that its records be kept pure, to prevent them from being made the repositories or vehicles of scandal, and to see that the answers do not contain useless and impertinent matter. And although there may be a difficulty in answering properly in some cases, as to a bill for an account and the like, without running into long details; yet unreasonable prolixity and mere verbiage should in all cases be avoided; and may be

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(*f*) *Hildyard v. Cressy*, 3 Atk. 303.—(*g*) 2 Fowl. Exch. Pra. 2; *Raphael v. Birdwood*, 1 Swan. 228; *Mortimer v. West*, 3 Swan. 229.