purchase money was really due or not. And being necessarily involved in the main question, the Court will not stop or delay the regular progress of the case to investigate or establish it by affidavits or proofs taken out of the regular order. The proof of possession, and the acts of ownership, lay the foundation of that equity which entitles the vendor to make the call for his money sooner than he otherwise could do; and, in that class of cases, it is said to be now quite decided, that, upon motions of this sort, affidavits of such collateral circumstances may be read, and that it was a practice to be encouraged, as it shortened pleading. *Clarke* v. *Wilson*, 15 *Ves.* 317; *Cutler* v. *Simons*, 2 *Meriv.* 103; *Morgan* v. *Shaw*, 2 *Meriv.* 138; *Crutchley* v. *Jerningham*, 2 *Meriv.* 502; *Bramley* v. *Teal*, 3 *Mad.* 219; *Wickham* v. *Evered*, 4 *Mad.* 53; *Blackburn* v. *Starr*, 6 *Mad.* 69; *Wynne* v. *Griffith*, 1 *Sim. & Stu.* 147; *Gill* v. *Watson*, 2 *Sim. & Stu.* 402.

But there is an obvious distinction between such collateral circumstances and peculiar equity, and the admission or establishment of facts, which go to shew the real title to the fund proposed * to be called in. Therefore, the proofs and exhibits that **162** have been taken and brought in under the order of the 10th of May last, must, upon the present occasion, be laid aside as altogether inadmissible.

Having thus disposed of the proffered auxiliaries of the plaintiffs, let us now take a review of those tendered by the defendant Thompson. He insists, that a certain paper he has presented as a supplemental answer, ought to be considered as an amended answer, or that he ought now to be permitted to file a supplemental answer as prayed by his petition.

It is with great difficulty permitted to a defendant to make any alteration in his answer, even upon a mistake. And there is no instance of its having been allowed for the purpose of retracting a clear and well understood admission. *Pearce* v. *Grove*, 3 *Atk.* 522. It should appear due to general justice to permit the issue to be altered. The rule upon this subject is, that the defendant must move to put in a supplemental answer, and accompany the motion with an affidavit, in which he must swear, that when he put in the answer, he did not know the circumstances upon which he applies, or any other circumstances upon which he ought to have stated the fact otherwise, or that when he swore to his original answer, he meant to swear in the sense in which he now desires to be at liberty to swear. *Livesey* v. *Wilson*, 1 *Ves. & Bea.* 149.

The paper tendered as an amended answer, comes within no part of this rule. It is silent as to the causes which occasioned him to omit mentioning the new matter, therein contained, in his original answer; nor does it say anything of his not knowing of the new circumstances therein disclosed. It, in fact, purports to be a mere additional or amended answer, proposed to be put on