

unless the plaintiffs establish their claim, as set forth, they can have no relief against him to any extent whatever. The defendant Richard Henderson rests his defence upon a plea of the Statute of Limitations. This defence also goes to the whole. It admits, that although a contract may have been made as alleged, yet it has been barred by the lapse of the prescribed length of time; and therefore, if this plea be properly applicable to the case and true, the plaintiffs can have no relief against this defendant, Richard Henderson. But the defendants, Sarah Henderson and Janet L. Henderson, having failed to answer, the bill may be taken *pro confesso* against them, and any relief may be awarded to the plaintiffs which can, under their general prayer, be sanctioned by the nature of their case.

Whence this important question necessarily arises; whether the Court, in any suit against a plurality of defendants, where any one of them makes, and sustains such a defence as goes to the whole, can pass a decree against any other of them, who has made no such defence, or as against whom the bill might otherwise be taken *pro confesso*?

✱ **255** * Although the pleadings in this Court are much more informal and loose than in Courts of common law, yet they must be substantially sufficient in this as well as in all other Courts; for otherwise the tribunal would have no means of ascertaining what was the real nature of the matter in controversy, nor of applying to it the rules of law by which it was to be decided. It is not necessary, that a plaintiff or a defendant should here, as in a Court of common law, strictly adhere to any prescribed form of stating his cause of complaint, or ground of defence. *Kemp v. Pryor*, 7 Ves. 245. But it is in all cases as indispensably necessary here, as in a Court of common law, that the plaintiff should set forth fully and substantially a cause of action or ground of complaint as then existing at the time of the institution of his suit; with this addition here, that it is in some essential particular such a case as comes properly within the cognizance of a Court of equity; for if, on the final hearing, the case should not appear to be one of that description, the plaintiff can have no relief, and the bill must be dismissed. ✓ *Mitf. Pl.* 44, 154. If it appears upon the face of the bill, that the case is not one of that description, the defendant should demur; yet if he fails to do so, the Court can grant no relief, but must order the bill to be dismissed. *Barker v. Dacie*, 6 Ves. 686; *The King of Spain v. Machado*, 4 Russ. 225. Although the case presented may be such an one as, if true, and the bill had set forth the whole truth and nothing but the truth, would entitle the plaintiff to relief, yet if the defendant shews, by way of plea or answer, that there are other facts making a necessary component part of it, which have not been set forth, and which give to it an entirely different complexion, the