submitted without argument, the proceedings were read and considered.

In general, wherever a plaintiff has an interest in any books or papers, which a defendant, by his answer, admits to be in his possession, he may be ordered to produce them on petition of the plaintiff, specifying what books or papers are wanted. *Ringgold* v. *Jones*, 1 *Bland*, 90, *note;* 2 *Mad. Pr. Chan.* 390; 1 *Newland Chan.* 199. But, in this instance, the plaintiffs, by their third exception, object to the sufficiency of the answer; because, the defendant has not brought into Court the books of James Clarke, and the bond of the defendant. So far as the bill calls for any disclosure respecting those books, or that bond, which have not been answered, the answer may be deemed insufficient and exceptionable; but, although the production of those books and papers is a part of the discovery, which this defendant, on his submitting to answer is bound to make, yet the taking of exceptions to his answer, because of his not producing them, is not the mode in which a defendant may be compelled to produce books and papers for the benefit of the plaintiff in the progress of the case, or at the final hearing; the application to have any such documents, as a defendant admits to be in his possession or under his control, brought in, must be made by petition. 1 *Harris Pra. Chan.* 322; *Wagram Discovery*, 14. This third exception must therefore be overruled.

The defendant having submitted to answer, must, according to the established rule, answer fully as to every fact in any way material *and pertinent to the plaintiff's case as set forth in his bill. *Mazarredo* v. *Maitland*, 3 *Mad.* 69; *Salmon* v. *Clagett*, *post.* But this defendant, after having thus submitted to answer, has offered a plea, covering the whole ground of his answer, in which he pleads and relies upon a decree, in another tribunal, upon the same matter, as a bar to this suit. A plea must always rest upon that which shews, that the defendant should not be compelled to answer at all; and therefore, an answer to any thing relied on by way of plea overrules the plea; because, if a defendant answers to the matter covered by his plea he thereby waives his plea; and, hence it is an established rule, that where a defendant pleads and answers to the same case, the answer overrules the plea. Consequently, even supposing this plea to be good and available if it had stood alone, it is clearly overruled by the answer to which it has been subjoined. *Cottington* v. *Fletcher*, 2 *Atk.* 155; *Blacket* v. *Langlands*, *Anstr.* 14; *Forum Rom.* 58; *James* v. *Sadgrove*, 1 *Cond. Chan. Rep.* 3; *Hannah K. Chase's Case*, 1 *Bland*, 217. **257**

Whereupon it is ordered, that the third exception of the plaintiffs to the answer of the defendant be overruled; and that all the other exceptions of the plaintiffs thereto be sustained; and that the defendant pay unto the plaintiffs all the costs of the said ex-