

with the commission, he returned and filed, on the 31st of * December, 1827. No other testimony was taken or re-
turned with that commission. 48

On the 24th of January, 1828, the infant defendants put in their answer, by their guardian *ad litem*, in which they said, that they knew nothing of the contents of the bill; nor could they admit them; but prayed that they might be proved, and that their interests might be protected.

BLAND, C., 21st February, 1828.—This case standing ready for hearing, and having been submitted, the proceedings were read and considered.

The law of a case arises out of the facts of which it is constituted, and it is the duty of the Court to declare what that law is. It is therefore not only unnecessary, but, in some cases it may be deemed impertinent, in a suitor to set forth, and comment upon what he conceives to be the law arising out of his case. To do so, without stating all the facts, or upon an imperfect statement of facts; as for example, to charge a defendant with fraud, without stating any such facts, as in contemplation of law, constitute a fraud, can form no foundation for relief or defence. It is sufficient that each party should state the facts of his own case; and therefore, although it is not unusual for a plaintiff to state in his bill, by way of anticipation, some of the allegations and pretences of the defendant; it is not indispensably necessary, in any case, or even proper in all cases, to set forth any matter in the bill, which if brought out at all, should come from the defendant as constituting a part or the entire foundation of his defence. But, it is essential that the plaintiff should distinctly state every fact necessary to constitute such a case as gives him a right to claim relief from the defendant at the time of filing his bill; and moreover, to set forth those peculiar circumstances which justify him in passing by the ordinary tribunals of the common law, and coming into a Court of equity to seek that relief. The plaintiff may state his case in the alternative, or with a double aspect, so that it may be considered in one way, or in another; provided, that in whatever way it is presented, it falls properly within the cognizance of a Court of equity. Upon a case, so stated, the plaintiff may either pray for special or for general relief; or he may make both special and general prayers for relief. And where the nature of the case is such, that the special prayer or designated relief cannot be granted; then, under the general prayer, relief may be granted, suitable to the peculiar nature of the case; as to which the Court * is not confined to that which may be specially asked or suggested, orally or otherwise; but may adapt the relief 49 exactly to the nature of the case stated in the bill, regardless of anything that may be said to the contrary by any of the parties.