

Ves. 302; *Shaw v. Ching*, 11 *Ves.* 305; *Rowe v. Teed*, 15 *Ves.* 377; *Somerville v. Mackay*, 16 *Ves.* 387.

The inconvenience of this new mode of pleading is, that the defence is not judged of by the Court, in the first instance, as it would be, if it were presented in the regular form of a plea; but is brought on, in the shape of exceptions to the answer, assuming a new, and in this respect, a different form, more indefinite and more expensive. By a plea, the defendant puts in issue a single fact, or several facts constituting one defence admitting all the other facts of the bill, and upon that the parties go to trial; if it is found for the defendant, the bill is dismissed; if for the plaintiff he has a decree; or previously thereto further inquiry is directed, if necessary. But, in this new mode, the defendant answering just what he chooses, issue cannot be joined on the single fact supposed to be the bar; but the plaintiff, if he replies, must reply to the answer as he finds it; and must go into long expensive proof* upon a great variety of facts, which is an unnecessary vexatious burthen thrown upon him. *Shaw v. Ching*, 11 *Ves.* 305; *Somerville v. Mackay*, 16 *Ves.* 387.

If the late cases, it is said, as far as they are authorities, *Dolder v. Huntingfield*, 11 *Ves.* 293, intimating by that term of expression a doubt, whether they ought to be really so considered, have established these exceptions to this rule; then it would seem to follow as a necessary consequence, that the negation or new matter relied on in the answer, to protect the defendant from discovery, must, at least, be brought forward by the answer as distinctly as if it had been pleaded. *Faulder v. Stuart*, 11 *Ves.* 302. And also, that all the facts stated in the bill, not covered by this form of defence, should, as in the case of a plea, be admitted to enable the plaintiff, at the hearing, to obtain a final decree for so much as was admitted, and sustained in opposition to the defence set up; in case a further discovery might not be necessary. But, as to all these matters, the new mode of proceeding is enveloped in darkness and uncertainty. Apparently aware of the difficulties into which the plaintiff would be thrown, in case the defendant should fail to sustain his defence in this form; it is said in one of those cases, that if such matter should be found against the defendant, he may be examined upon interrogatories to discover his knowledge. *Randal v. Head*, *Hard.* 188. But what weight is to be given to the answers to those interrogatories; and to what points are they to be directed? A plea places the case, and its several parts, in a clear, definitive condition; but this new-fashioned defence distinctly specifies nothing.

After passing over this review of the subject, and considering how the law is chained together, and how important it is to preserve its consistency and harmony as a whole, and in its several parts; and that the genius of all our institutions requires; that no