

which *Lydia* has said can be allowed to affect the interest of her husband *David*. But in the body of this answer, which has been properly sworn to by her as well as her husband, she expressly declares, that as to various circumstances as therein set forth by way of defence, she speaks for herself alone, as the administratrix of the deceased *John Henderson*. Where a bill was filed by a legatee against husband and wife, she being the executrix, and after they had answered he died; it was held, that she was bound by the answer they had so made in his lifetime.(y) And where the husband and wife had not answered separately, or had not so answered under the previous sanction of an order of the court, she was held bound by so much of the answer as was called for and purported to come from her;(z) or which in point of fact had been made by and received from her as her separate answer.(a) And if a wife who is executrix knows, or apprehends, that her husband will answer to her prejudice, or if in any case she disproves of the defence he wishes to make, the court will give her leave to answer separately.(b) So that in whatever way this answer of *English* and wife is taken, as nothing therein set forth, as coming from her, can affect his interest; and as he professes, so far as he answers for himself, to know nothing of the matter, the several parts of it, which so distinctly profess to be the allegations of each, may safely and most advantageously for each be treated as if they had been set forth in regular and entirely separate answers from each of them.

Taking this answer in this way, then, it appears, that the defendant *David English*, without expressly denying any thing, admits nothing; but puts the whole of the plaintiff's case in issue. His defence goes to the very origin, foundation and existence of the plaintiff's whole cause of suit; and, therefore, it behooves them to sustain their whole case in every way against him, or they must totally fail. The defendant *Lydia*, in effect, admits the original foundation of the plaintiff's cause of suit; but, by way of avoidance, considering it as a contract of bargain and sale of a tract of land, avers, in substance, that the purchase money, in the modes therein described, has been paid and fully satisfied. This defence,

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(y) *Shelberry v. Briggs*, 2 Vern. 249.—(z) *Wrottesley v. Bendish*, 3 P. Will. 236; *Le Neve v. Le Neve*, 3 Atk. 648.—(a) *Chandos v. Talbot*, 2 P. Will. 371.—(b) *Ex parte Halsam*, 2 Atk. 50; *Wybourn v. Blount*, Dick. 155; 2 Eq. Ca. Abr. 66; Mitf Pl. 104.