say whether they are true or false; and to set forth all he knows about them; it extends so far and no farther.

The object in calling for an answer is to serve the purposes of the plaintiff, not of the defendant. The plaintiff calls for it as evidence, and it is equivalent to parol evidence, as to all matters where such testimony is available. But, the necessary consequence of this position is, that since the plaintiff has called on the defendant to testify, by way of answer, it is to the full extent of the call, or so far as it is responsive to the bill, competent evidence; which cannot be overturned by the testimony of one witness alone; and the answer so called for is evidence to this extent, although it be made by a defendant deeply interested, or by one who is incompetent as a witness in ordinary cases; or by a corporation aggregate under its seal without oath.

A defendant may allege any facts in his answer, as an avoidance, which give rise to an equity that constitutes a good defence; as payment, a release, &c.; and, however generally or darkly any such matter may be stated, the plaintiff cannot except; because they form no part of that response he had called for; and if such statements are so obscure as to be of no avail, it can be of no injury to him. The defendant alone bears the consequences of the lame and ineffectual manner in which he puts forward his own defence. Facts thus advanced in the answer, by way of avoidance, operate, in many respects, as if they had been couched in the form of a plea; but whether presented in the one form or the other, they are never considered as evidence of any kind; because the plaintiff had not, in any manner, called for them. Hence, if the plaintiff puts in a general replication, the defendant must prove them at the hearing, or they will be disregarded. (*t*) Yet if the plaintiff sets the case down to be heard on bill and answer, or refuses to reply, then such allegations must be received as true; not because they constitute any part of the answer called for by the bill; but, because the plaintiff by setting the case down on bill and answer, or refusing to reply, has precluded the defendant from proving them; and, therefore, by that act he makes a tacit admission of their truth; and they are accordingly received as admissions; (*u*) an infant plaintiff, however, can make no such admissions. (*w*)

(*t*) Simson *v.* Hart, 14 John. 74.—(*u*) Barker *v.* Wyld, 1 Vern. 140; Grosvenor *v.* Cartwright, 2 Cha. Ca. 21; Wrottesley *v.* Bendish, 3 P. Will. 237, n.; Wright *v.* Nutt, 3 Bro. C. C. 339; Beams' Orders, 180; Forum Rom. 45; Estep *v.* Watkins, 1 Bland, 488.—(*w*) Legard *v.* Sheffield, 2 Atk. 377.