These authorities appear satisfactorily to sustain this rule; and to shew, that the defendant cannot be allowed, with impunity or advantage to himself, to refuse to answer at all; or in any manner or form to stop short, or to omit to answer any material part of the plaintiff's case; and that the consequence of such refusal or failure is, that the whole bill, or so much of it as remains unanswered, may, at the hearing, be taken *pro confesso*. (*d*)

The proceedings in Chancery have been formed according to the course of the civil law, in some respects, and analogous to the common law in others; and as to all matters of substance there must be the same strictness in pleading in equity as at law. (*e*) Hence it is not unfrequent, where a case arises as to which former decisions furnish no safe guide, to have recourse to the illustrative analogies of the common law. (*f*) Supposing then, that, in relation to this subject, there was a total absence of all manner of precedent and authority, the analogous course of the common law would be found to afford much and strong light.

At common law there are two defaults, the one before, and the other after appearance. The consequence of the first, in England, is, that the defendant may be outlawed; and in this state, in many cases, is, that an attachment may go against his estate. The consequence of the second default, or the defendant's not putting in any plea at all, is, that the plaintiff may have a judgment by *nil dicit*. The plea is called, at common law, the answer of the defendant; and if he fails to answer, judgment is awarded against him on the ground, that he has thus tacitly admitted, or confessed the case of the plaintiff; and left him nothing to litigate or to prove. So, in equity, after an appearance, the taking a bill *pro confesso* where no answer has been put in; or no sufficient answer, after exceptions have been sustained, is analogous to the taking the declaration for true, where the defendant has put in no plea at all, or it has been held insufficient on demurrer. (*g*)

It is a rule, at common law, that every plea must answer the whole declaration, or at least every material part of it, which goes to constitute the gist of the action. But, the defendant may fail, or purposely decline to plead, or answer to every part of the decla-

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(*d*) Abergavenny *v.* Abergavenny, 2 Eq. Ca. Abr. 179; S. C. 1 Harr. Pra. Chan. 277.—(*e*) Moore *v.* Hart, 1 Vern. 114; Story *v.* Windsor, 2 Atk. 632; Dobson *v.* Leadbeater, 13 Ves. 233.—(*f*) Davis *v.* Davis, 2 Atk. 21; Foster *v.* Vassall, 3 Atk. 589; Bayley *v.* Adams 6 Ves. 594; Dolder *v.* Huntingfield, 11 Ves. 292.—(*g*) Davis *v.* Davis, 2 Atk. 21; Buckingham *v.* Peddicord, 2 Bland, 447.