of equity arise, upon which he asks relief; or, as I have said upon a former occasion, the plaintiff's case, as stated by himself, must, in substance, or in some essential bearing, have such a character as will confer jurisdiction on a Court of Chancery; it must appear to be an equitable, as contradistinguished from a mere legal cause of suit. The bill must itself shew why it was necessary, or allowable for the plaintiff to leave the ordinary legal tribunal and come into a Court of Chancery for relief. *Estep* v. *Watkins*, 1 *Bland*, 489. For, the justice of the Republic is distributed, by the Constitution, into particular Courts, which should not be confounded. *Brown* v. *Bradshaw*, *Prec. Cha.* 156; 4 *Inst.* 71. The bill may assert, that such and such principles of equity arise out of the facts stated, which entitle the plaintiff to relief; but it is for the Court alone to determine how far they are applicable or correct. The case of the plaintiff, then consists merely of facts, *ex facto oritur jus*. Consequently the bill calls on the defendant to speak *of, and about facts; thus, if the bill states facts which amount to constructive notice, it is not enough for the defendant to deny notice, he must answer to the facts which constitute the notice. *Jerrard* v. *Saunders*, 2 *Ves. Jun.* 187.

135

A defendant who comes into Court; and, in any manner, meets and opposes, or admits the complaint made against him, may be said to answer it. If he demurs to the bill, he admits the facts; but avers, that none of those principles, for which the plaintiff contends, do so arise from them as to entitle him to relief; and thus the complaint is answered. If the defendant by way of plea, says he has paid the debt claimed by the plaintiff; and asserts that fact as his defence; he gives a legal answer to the complaint. But the bill itself calls upon the defendant to speak to facts, and a mere denial of facts is proper for such an answer, but not for a plea. *Milligan* v. *Milledge*, 3 *Cran.* 220; *As to this matter, see Wagram on Discovery*, 8, *&c.*

It is therefore perfectly evident, that neither a demurrer, nor a plea is that sort of answer which the bill requires; because they neither of them say one word about the matter of fact stated in the bill, or speak of them in the manner they are there treated. The demurrer takes them for true, and answers, by averring, that they constitute no ground for relief. A plea in equity, like a special plea at law, most usually admits, or rather supposes, all that is set forth in the bill to be true; *Plunket* v. *Penson*, 2 *Atk.* 54; *Roche* v. *Morgell*, 2 *Scho. & Lefr.* 727; *Tompkins* v. *Ashby*, 22 *Com. Law Rep.* 239; but states other facts which produce an equity, which displaces that arising from the facts stated by the bill; or, the plea, an incongruous kind of one, affirms the validity of that, as a release or the like, the dissolution of which is sought, denying the circumstances upon which its legality is impeached by the bill.