

PLEADING.—*Continued.*

11. If the plaintiff, after filing his bill, discover that one of the defendants is not a non-resident as alleged therein, he may amend his bill so as to pray process of subpoena against him. *Ib.*
12. In a suit concerning lands, if the Statute of Frauds be not specially relied on, or the whole contract be not expressly denied in pleading, the defendant is held to have waived the statute and cannot be permitted to take advantage of it afterwards, or at the final hearing. *Ib.*
13. The plaintiff can only obtain relief upon the strength of his own title as it existed at the time of instituting his suit, and not on the weakness of the title of his adversary, or the imbecility of his defence. *Ib.*
14. In general, if the facts stated in the bill are not in substance sufficient to entitle the complainant to the relief prayed, he cannot resort to the answer of the defendant, the proof taken in the case, or any extraneous matter to supply the defect. *Ib.*
15. After the plaintiff has set forth the facts showing his case to be properly within the cognizance of equity, he may proceed to specify the kind of relief to which he thinks himself entitled. *Ib.*
16. If he specifies the relief for which he asks, and prays for none other, either generally or specially, and the nature of his case is such that he cannot obtain relief of that kind, then he cannot be relieved at all, unless he amends the prayer of his bill. *Ib.*
17. But if the bill prays generally for such relief as is suited to the nature of the case, then, under such general prayer, the Court may, regardless of, or without any, special prayer, grant any relief which may be allowed by law in conformity with the nature of the case. *Ib.*
18. The plaintiff may present his case in the alternative; provided the alternatives are both of them such as are cognizable by a Court of equity; and are not so framed as to allow the plaintiff to elude any rule of Court. *Ib.*
19. If it appear upon the face of the bill that the case is not one properly within the cognizance of a Court of equity, the defendant should demur; yet if he fails to do so, the Court can grant no relief, but must order the bill to be dismissed. *Ib.*
20. There is a variety of cases at common law as well as in equity, in which a plaintiff may obtain relief against some one or more of the defendants, although he may totally fail against all the others; but where one of two or more defendants makes a defence which so effectually goes to the whole as to show, that the plaintiff had no cause of suit, nor any foundation for a legal complaint, he can have no relief even against the defendant as to whom the bill had been taken *pro confesso*. *Ib.*
21. More precision is required in a plea than in a bill. *Ib.*
22. A plea of the Act of Limitations of three years is not applicable to an equitable lien, which can only be barred by a lapse of twenty years. *Ib.*
23. Where it was held, that the plaintiffs had established their claim, that the matters pleaded in avoidance by one of the defendants were not proved; that the Statute of Limitations of three years pleaded by another defendant was not applicable; and that, upon failure of the