will follow the practice as expounded in the last decision. In such cases certainty is of the greatest importance, and the Court will not inquire into the foundation of the practice, or investigate the reason of its adoption. See *Bancroft* v. *Greenwood*, 1 H. & C. 778.

To conclude this part of our subject, we may advert to the decisions where the Court consists of a single Judge only, as in England in the Bail Court, and in Ontario in the Practice Court. As might be expected these cases do not force the right which attaches to the adjudicating of a bench of Judges. In *Edwards* v. *Bennett*, 5 Prac. R., 164, Gwynne, J., says: "The case decided by the full Court appears to me to settle the point, and greater weight must be attributed to the decision being that of the full court, than to any of the cases decided by a single judge in the Bail Court."

ENLARGEMENT OF THE LAW OF SET-OFF.

The right of set-off obtains to but a limited degree in English jurisprudence. Originally unknown to the common law, it was recognized to a considerable extent in equity and was afterwards in the statutes of set-off, incorporated, subject to many well-known restrictions, into the general law of England. But many cases occur almost yearly, in which the natural equity to off-set claims arising out of the circumstances of the litigation is most persuasive. The courts, however, have felt hampered by the law as it exists, and have been obliged to refuse relief, which should have been granted, if for no other reason, in furtherance of the maxim *Interest reipublicæ ut sit finis litium.* Courts of Equity have exercised a larger jurisdiction in matters of set-off than has been entrusted to Courts of Law, for the reason, no doubt, that the former have always had more adaptable machinery for dealing with and working out conflicting equities and the enquiries consequent thereon, and they have not, as have Common Law Courts, regarded with abhorence a multiplicity of issues. The comparison has been quaintly, yet appositely made, that a verdict at law is like a fixed pipe which can only inject water in one course, whereas a decree in Chancery possesses the power of the *hose*, or flexible pipe, which is directed by turns from side to side, till every kindling spark of litigation is extinguished.

By recent legislation in Ontario much of this flexibility has been communicated to the Common Law Courts, and the present seems a fitting time to consider some of deficiencies of the law on the subject of set-off, in order to effect the extension of this principle to such cases as have been above indicated.

In the New York code it is provided that the defendant may answer any complaint by setting up any new matter constituting a defence or counter-claim. This counter-claim is defined to be one existing in favour of a defendant and against a plaintiff, between whom a several judgment might be had in the action, and arising out of one of the following causes of action: (1) A cause of action arising out of the contract of transaction set forth in the complaint, as the foundation of the plaintiff's claim, or connected with the subject of the action; (2) In an action arising on contract, any other cause of action, arising also on contract, and existing at the commencement of the action. A good deal of discussion has arisen as to the scope of the first sub-division. In the narrower construction, the latter clause "connected with the subject of the action," is treated as merely a qualification of the preceding clause; in the more liberal and reasonable sense, it is contended that the latter clause is meant to apply to the *property* in respect of which the plaintiff has be-