conception, that submission of a controversy to public, judicial settlement was, like submission to private arbitration, optional, and to be effected only by consent. Long after that conception had been forgotten, and judicial settlement had become unescapable by a defendant, the old prerequisite of consent was enforced, so far as the court could enforce it. The penalty threatened in the writ of subpoena *ad respondendum,* ordinarily a hundred pounds, appears to have been resorted to little if at all in England, even in the fourteenth century, and it is believed that it was never resorted to in Maryland. If a defendant, after having received the subpoena, disobeyed the command and failed to appear, the first resort was an attachment for contempt, the regular method of enforcing orders of the court. In that proceeding, the writ directed the sheriff to take the defendant or his goods, to coerce the appearance and answer to the complaint. Should the sheriff fail to find the defendant with this writ, there followed a proclamation commanding the defendant to appear upon pain of his allegiance, that is, under penalty of outlawry; and this was accompanied by a second writ of attachment. The next resort was a commission of rebellion, which recited the issuance of the proclamation, ordered that the defendant be taken by the sheriff wherever found, and commanded all constables and bailiffs to assist the sheriff in it. A sergeant-at-arms might in England then be sent to seize the defendant. All these efforts having failed to discover the defendant, or any goods owned by him, the court desisted, and the complainant was left to solace himself with the reflection that the defendant was not worth suing. In the present record will be found instances of all the efforts described except resort to a sergeant-at-arms. If the defendant could not be found in the first place, and the sheriff accordingly made a return of that fact, *non est inventus,* the proceeding could not go forward at all, in Chancery; there would then be no disobedience of the writ, and no contempt, to be visited with the successive processes described.

A defendant who appeared to contest the suit might take any one of three steps as his first. He might file in writing a demurrer to the bill of complaint or petition, which in substance denied that the complainant, on his own bill, had any right to the relief he sought from the court. If the court should find such a denial correct, the demurrer would be sustained, and the complainant's suit dismissed. If, on the other hand, the demurrer was not found good, it was overruled, and the defendant was required to answer the bill of complaint as prayed unless he had ground for a plea, as is stated on page 8 of this volume. The plea was a contention that even if rights might be allowed on the facts in the proper court, and at the suit of the proper party, none could be allowed and remedied in the particular suit either because the court did not have jurisdiction of it, or the complainant was disabled from making the application, by reason of his outlawry, excommunication, or other such matter.

The answer was a most important part of Chancery procedure, taken from procedure in the ecclesiastical courts. Its office was not merely to present the defendant's contradiction of the complainant's allegations and claim, but also to make disclosure of facts demanded by the complainant. It was a purging of the conscience of the defendant to which the complainant was entitled. And it was to be under oath. In England, if the defendant lived within twenty