

The object of the interrogatories of the bill is, lawfully to obtain answers thereto, for the purpose of using them as evidence applicable to a case of which the court has jurisdiction. But these disclosures may be very injurious, or destructive to the interests of the defendant; and he may be able to shew, that, in equity, he is not and ought not to be bound to make any discovery whatever. A plea is exactly calculated for this purpose. Whatever shews there is no right which can be made the foundation of a suit, may constitute the subject of a plea. One of its main objects is to advance such new matter, as has not been shewn or relied on by the plaintiff, as will preclude him from that discovery which he requires by his bill. But, although the plea may advance some new matter, yet it may be, that it only denies some fact affirmed by the plaintiff, and which is so essential to his case, that without establishing its truth he cannot recover. (q) If a plea be overruled generally, the defendant is ordered to answer; or it may be wholly overruled, as a plea, leaving it to stand for an answer, with or without liberty to except; or it may be allowed to operate as a plea, for the purpose of protecting the defendant from some particular discovery, and to stand for an answer with liberty to except as to the rest. (r)

But a plea admits the truth of the facts set forth in the bill, that are not particularly covered and denied by it; and therefore, if the defendant fails to establish the truth of his plea, on issue joined thereon, as to all the discovery sought by the bill, and which the defendant protected himself from making by his plea, the plaintiff is left precisely in the situation of having had his bill taken *pro confesso*. But that may be; and, in many cases, is far from answering his purpose. The disclosure of facts which the defendant alone is capable of making, and of which the plaintiff is unable to adduce any proof, may be essentially or indispensably necessary to enable him to obtain the relief he is in quest of. Consequently, where a discovery is needful to the plaintiff he shall not, under such circumstances, lose the benefit of it; as the court will order the defendant to be examined on interrogatories to supply the defect. (s) For the same purpose, of supplying the defect, in

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(q) *Drew v. Drew*, 2 Ves. & Bea. 159.—(r) *Pusey v. Desbouvrie*, 3 P. Will. 321; *Brereton v. Gamul*, 2 Atk. 240; *Child v. Gibson*, 2 Atk. 603; *King v. Holcombe*, 4 Bro. C. C. 439; *Spurrier v. Fitzgerald*, 6 Ves. 548.—(s) *Brownsword v. Edwards*, 2 Ves. 246; *Hawtry v. Trollop*, Nelson, 119; *Mitf. Plea*. 240; *Brown v. Wilson*, 4 Hen. and Mun. 481.