prove something which would take the case out of the statute, when applied to the agreement disclosed, he was, therefore, entitled to a discovery of the particulars of the agreement to enable him to do so. But if the plaintiff fails to do so, then the defendant would be allowed the benefit of the statute, notwithstanding his disclosures. (*x*)

The old rule was, either to demur, to plead upon something *dehors* the bill, or by a negative plea, or to answer throughout. And a wish has been expressed, even by one who seems to admit the correctness of some of the exceptions to this rule, that whenever a party is not bound to answer the interrogatories put, he should be obliged to take advantage of it by demurrer. But this new mode of proceeding, for such it is said to be, although the first instance of its allowance occurred as far back as the year 1661, has been stigmatized as a kind of incomprehensible *non-descript*. It is called a sort of illegitimate pleading; or a species of plea, which is neither a plea, answer, or demurrer, but a little of each; the various, and discordant opinions of some eminent men; that it was impossible the forms of pleading could be permitted to stand as altered by those reported cases; and that when the question came for decision it would be infinitely better to decide, that the objection to discovery should be made by plea rather than by answer. (*y*)

The inconvenience of this new mode of pleading is, that the defence is not judged of by the court, in the first instance, as it would be, if it were presented in the regular form of a plea; but is brought on, in the shape of exceptions to the answer, assuming a new, and, in this respect, a different form, more indefinite and more expensive. By a plea, the defendant puts in issue a single fact, or several facts constituting one defence admitting all the other facts of the bill, and upon that the parties go to trial; if it is found for the defendant, the bill is dismissed; if for the plaintiff he has a decree; or previously thereto further inquiry is directed, if necessary. But, in this new mode, the defendant answering just what he chooses, issue cannot be joined on the single fact supposed to be the bar; but the plaintiff, if he replies, must reply to the answer as he finds it; and must go into long expensive proof

(*x*) Cooth *v.* Jackson, 6 Ves. 37; Rowe *v.* Teed, 15 Ves. 375; Givens *v.* Calder, 2 Desau. 172.—(*y*) Randal *v.* Head, Hard. 188; Selby *v.* Selby, 4 Bro. C. C. 12; Dolder *v.* Huntingfield, 11 Ves. 283; Faulder *v.* Stuart, 11 Ves. 302; Shaw *v.* Ching, 11 Ves. 305; Rowe *v.* Teed, 15 Ves. 377; Somerville *v.* Mackay, 16 Ves. 387.