this was a bill for relief here, and this case was set down for hearing on bill and answer, then this allegation, in the answer of the defendant *Mary*, would be taken for true, although she might be deemed incompetent to testify to the fact as a witness. (*o*) But as to the relevancy, legality, and competency of any testimony brought out by a bill of discovery, it does not belong to this court to decide; because such questions can only be determined, with propriety, by the court of common law for whose use the discovery has been required. (*p*)

It is a general rule, that on a bill of discovery the plaintiff must pay to the defendant all his costs in this court; and that too, including all expenses incurred by the defendant in resisting motions made in the case by the plaintiff. And the defendant's right to make his demand, accrues as soon as he has answered, allowing to the plaintiff a reasonable time to look into the sufficiency of the answer. But it has been thought that this rule is too general; that it ought, at least, to be so modified, as that the plaintiff should not be bound to pay costs where, upon demand, the defendant had refused voluntarily to make the requisite disclosures, so as to compel the plaintiff to come into this court, and incur the expense of a bill of discovery. It certainly does seem to be reasonable, even although the plaintiff should be ordered to pay the costs of this court in the first instance; yet that they should await the event of the suit at law, and be taxed there like the costs for summoning witnesses, &c. as a part of the costs of the suit at common law. (*q*)

The act of Assembly declares, that in deciding on exceptions to answers, the court may award costs to the party prevailing; (*r*) by which the question of costs seems to have been submitted entirely to the discretion of the court, in all such cases, without distinction. In the exercise of that discretion, therefore, I cannot but think it as reasonable, on a mere bill of discovery, as on a bill for relief, where the plaintiff has been put to the expense and trouble of extracting a sufficient answer from the defendant, or of pruning away its impertinences, that he should have, at least the costs of the exceptions; and therefore I shall give such costs in this case.

(*o*) Lenox *v.* Prout, 3 Wheat. 527.—(*p*) Bishop of London *v.* Fytche, 1 Bro. C. C. 98; Hindman *v.* Taylor, 2 Bro. C. C. 8.—(*q*) Cartwright *v.* Hately, 1 Ves., jun., 292; Weymouth *v.* Boyer, 1 Ves., jun., 423; Simmonds *v.* Lord Kinnaird, 4 Ves. 746; Hindman *v.* Taylor, 2 Bro. C. C. 10; Noble *v.* Garland, 1 Mad. Rep. 343; 1 Mad. Pra. Chan. 216; Grant *v.* Jackson, Peake's Cas. N. P. 204.—(*r*) 1820, ch. 161, s. 8.