

CHAPTER II.

EXAMINATION IN CHIEF.

GREAT care must be exercised by the advocate in the introduction of his evidence. As has been pointed out in the preceding chapter, he should, before he enters into the trial of the case, obtain from his adversary every lawful advantage to which he is entitled, so far as the production of documents is concerned, and in obtaining an admission of the genuineness of papers which he will find it necessary to introduce.

The advocate should pay great attention to the order in which he puts in his evidence. It is difficult to lay down general rules upon this subject, and much must depend upon the sound judgment of the advocate himself.

There are some suggestions which occur to us, however, which may prove helpful to the lawyer in court. Where the evidence is based upon documentary evidence, such as a bond, deed, or note, the first thing the plaintiff's attorney must do towards making out his case, is to produce and verify the paper, or account for its loss or absence, and prove its contents by secondary evidence (*vide ante*, p. 6, and *post*, p. 164). Formerly, if the document was subscribed by attesting witnesses, these witnesses had to be called, whether attestation were essential to the validity of the document or not. But now by s. 26 of the Common Law Procedure Act, 1854 (17 and 18 Vict. c. 125), "It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission, or otherwise, as if there had been