

party to appear absolutely, and the cause is then to proceed as if no appearance on protest had been given.

In contested suits the facts may be established either by libel or plea, and the examination of witnesses thereon styled "Plea and Proof;" or by an "Act on Petition," supported by affidavits, to which may be annexed exhibits or other documents to be verified in the affidavits.

### § 12. *Proceedings by Plea and Proof.*

When an appearance has been entered, the defendant is entitled to an assignation on the plaintiff to exhibit a libel within a time to be limited by the Judge.

The libel or plea is to be drawn by the plaintiff's Proctor\* and settled by Counsel, and then a fair copy, signed by Counsel, is to be made for the Court, and brought in pursuant to the assignation; a copy is also to be delivered to the adverse Proctor, and each Proctor is entitled to make copies for the use of his Counsel at the hearing.

There may be annexed to the libel or plea, documents or exhibits pleaded or referred to therein, of which copies are to be made in like manner, the originals being brought into Court. And upon the libel or plea being brought in, the Judge is to assign to hear, on admission thereof, on the next Court day, or at a time to be named by him. The defendant's Proctor may then lay the libel or plea before Counsel for his advice, if the same be opposable, and if it be deemed by him not sufficient in law (supposing it to be true) to warrant the plaintiff's prayer, the admission of it may be opposed; whereby if the plaintiff has no legal cause of action, the suit may be stopped *in limine*, it being the duty of the Judge to reject all pleas, which, if assumed to be true, will not justify him in pronouncing a decree for the party giving in such plea. Or if the plea contains matter unnecessary or irrelevant to the cause of action, or is drawn in too diffuse or argumentative a manner, the admission thereof may be opposed. Upon these objections coming on to be debated, the Judge will order the plea to be admitted, reformed, or altogether rejected as he shall see cause. If ordered to be reformed, the Judge will in his discretion direct the objectionable matter to be expunged and other points

\* See Libels, No. 13 to 17.