

or Judge may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the cause or matter, or make such order, either generally or limited to certain classes of documents, as may in their or his discretion be thought fit. Provided that discovery shall not be ordered when and so far as the Court or Judge shall be of opinion that it is not necessary either for disposing fairly of the cause or matter or for saving costs.

Generally speaking, in the K. B. D., the order will not be made to take effect until after the defence has been delivered.

When, however, the order has been made, the next step will be for your opponent to comply with it by swearing what is called an affidavit of documents.

Order XXXI., Rule 13. The affidavit to be made by a party against whom such order as is mentioned in the last preceding Rule has been made, shall specify which, if any, of the documents therein mentioned he objects to produce, and it shall be in the Form No. 8 in Appendix B, with such variations as circumstances may require (*vide* App. No. 1, p. 171).

In this affidavit your opponent is required to state:—

- (i.) What documents relating to the matters in question are in his possession or power.
- (ii.) Whether he objects to produce any of them, and if so, on what ground (*i.e.*, if privilege, for instance, is claimed).
- (iii.) What relevant documents he has had in his possession or power and when they were last so, and what has become of them and in whose possession they are.
- (iv.) That he has not, and never had, any other relevant documents in his possession or power.

Armed with this information, the solicitor instructing you will now be enabled to inspect the documents for which no privilege has been claimed and to take copies of them, under Rule 15 of Order XXXI., which is as follows:—

15. Every party to a cause or matter shall be entitled, at any time by notice in writing to give notice to any other party in whose