

the Registrar, with instructions as to the particular interrogatories to be administered to each witness. When the witness has been examined in chief, and also upon interrogatories, if any are to be administered, the depositions in chief, and also the answers to the interrogatories (if any,) are to be read over to or by the witnesses and signed by him, and he is then to attend with the Registrar before the Judge or Surrogate in chambers, and make a declaration that he knows the contents of his deposition, and that the same are true in virtue of the oath by him taken on his being produced; and an attestation thereof is to be made at the foot of the deposition by the Registrar or Examiner.

The evidence of the witnesses is in all cases to be kept closely sealed, and the contents thereof are not to be divulged until publication shall have been passed; after which, but not sooner, the Proctor administering the interrogatories, if any are administered, is to deliver a copy thereof to the Proctor producing the witness.

In the event of any witness refusing to attend to be examined, his necessary expenses having been tendered to him (but not otherwise,) a compulsory or subpoena,* to be prepared by the Registrar, may be extracted, and served on the person so refusing to attend, by shewing to him the original instrument under seal, and leaving with him a collated copy thereof, and if he do not appear to this process, an attachment may issue against him for his contempt.

The witnesses for the plaintiff being all examined, his Proctor may on the first court-day afterwards pray publication of the evidence, which is to be decreed to take place at a time to be fixed by the Judge;† and at the expiration of that time it is imperative on the opposite party to plead if he intends to do so at all; for this purpose, he is to attend before the Registrar or Surrogate, and declare in a minute‡ of Court that he intends to offer an allegation§ or counter-plea, and the same must be brought into Court within a reasonable time, to be assigned by the Judge. In that case, publication of the evidence must be stayed until the allegation be disposed of, either by being admitted or rejected by the Court, or by the party abandoning the intention of giving it in. If admitted, publication must be stayed until the whole evidence in the cause be taken. In the event of no allegation or counter-plea being given, or, if given, being rejected by the Court, or withdrawn by the party, publication of the evidence is to take place; and thereupon the depositions may be inspected on each side, and copies thereof furnished to the parties at the request of their Proctors, who may make copies thereof for their respective Counsel.

After the evidence has been inspected, neither party can claim as a matter of right to give any further plea or allegation in the principle cause; but if the Judge shall be satisfied by affidavit that there is any matter important to the issue, which could not have been pleaded before by reason that knowledge thereof had not come to the party prior to, or that the fact had occurred after the publication, the Judge in his discretion may allow such matter to be pleaded.

Allegations exceptive to the testimony of witnesses || may be given after publication in cases only where the matter on which they are founded, arises out of the evidence of the witness or witnesses excepted to, and where the contradiction, if proved, would tend materially to destroy his or their credit; but no allegation exceptive to the testimony of witnesses is to be admitted, if the facts it contains either have been or could have been pleaded before publication. After publication, no allegation, pleading generally that the witness is not worthy to be believed on his oath, is to be received. Any such allegation, when offered, must precede publication, and must plead generally that the witness is of bad character and reputation, and not to be believed on his oath without imputing to him any specific charges.

* See Form No. 100.

† See Minute, No. 101.

‡ See Minute No. 102.

§ See Forms of Allegation, No. 103 to 107.

|| See Forms Nos. 108 and 109.