

It is competent to the adverse Proctor to object to the proposed sureties, in which case the Judge is immediately to decide on the validity of the objections. If the adverse Proctor do not attend at the production of the sureties, the bail may be taken *ex parte* upon an affidavit,* to be prepared by the Proctor producing them, that he has given twenty-four hours' notice in writing of their names, address, and occupation, which affidavit is to be left in the Registry.

Should a party appear under protest, either objecting to the jurisdiction of the Court or on any other ground on which he means to contend that he is not liable to answer the action, his appearance must be entered by the Registrar in the Assignment Book as given under protest, and the party so appearing is to be assigned to deliver his act on protest to the adverse Proctor within a limited time.† The same course of proceeding is to be pursued on the act on protest as in cases of acts on petition (hereafter stated) up to the time of the hearing, when the Judge is either to pronounce for the protest and dismiss the suit, or overrule the protest and assign the 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 witness 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 the 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 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 too diffuse or argumentative a manner, the admission thereof may be opposed. Upon these objections coming 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 modified. || If ordered to be rejected, such rejection puts an end to the suit.

On the libel being debated, a case on each side is to be prepared by the respective Proctors, and delivered to the Counsel with copies of the libel and of the exhibits, if any, which copies, however, must afterwards serve for the use of the Counsel at the final hearing.

* See Form of Affidavit, No. 69.

† See Form of Act, No. 70.

‡ See Libels, No. 71 to 75.

§ See Form of Minute on bringing in Libel, No. 76.

|| See Minute admitting, reforming or rejecting Libel, No. 77 to 80.