

In doing this, it is their duty to confine themselves and the witness to the substance of the interrogatories; for, if they take down any thing impertinent, it may be suppressed, and the commissioners themselves made to pay the costs. Each witness having been fully examined, and the depositions revised, corrected, and properly certified, the whole must be sealed up, so that no part of the contents can be read, and thus returned to the court. (g) When the commissions have been all returned, an order may be obtained for their publication, or in other words, that they be opened, read, and copies taken by all concerned, if required. The examinations being thus brought to a conclusion and made public, no further testimony can be taken in relation to the matter in issue between the parties; unless under very special circumstances. (h)

After the publication, but not before, either party may exhibit articles against any witness of his opponent; and obtain a commission to take testimony in support of his articles impeaching the credibility, or the competency of the witness. (i) And if any of the interrogatories, or any portion of the testimony be scandalous, or impertinent, and irrelevant to the matter in issue, they may be suppressed at the hearing; or if not, still they must be totally disregarded; since it would be deemed error in the court to ground its decree, upon any such testimony; and the party, at whose instance such impertinent testimony has been taken may be made to pay the costs.

From this mode in which the English Court of Chancery has the testimony of a witness taken, it is manifest, that it would be utterly impracticable, before publication, to suspend the examination until objections to the competency of the witness, or the relevancy of the testimony was determined; because a party cannot, from the general notice given him by his opponent, that such and such persons will be called as witnesses, be prepared to shew the incompetency, or to discredit any one of them without hearing, or knowing the nature of his testimony. Although the incompetency

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&c.' Park's His. Co. Chan. 284. But by an order or rule of court, passed in the year 1721, the commissioners and their clerks were required to take an oath, impartially to examine the witnesses; and not to disclose their depositions until after publication, Beam's Orders, 327; Forum Rom. 143. Nor should the witnesses, according to these English principles, disclose their evidence to the parties; Forum Rom. 141; Cooth v. Jackson, 6 Ves. 32.

(g) 1 Harr. Prac. Chan. 476.—(h) 1 Harr. Prac. Chan. 458.—(i) Forum Rom. 147; 1 Harr. Prac. Chan. 511.