And in fact the mode now of examining a witness, under a commission from this court, except that it is all in writing, is similar in every respect to an examination in a court of common law. He on whose part the witness is called examines him first, and then he is cross-examined by the opposite party; and so on until the whole testimony is taken. The benefit of which cross-examination, strictly and properly so called, and as here understood, cannot be had, under the English secret mode of proceeding. (*r*) If any thing should be developed, in the course of the examination, from which it appears, that, by other testimony, the incompetency or incredibility of a witness may be shewn, it is not necessary, as in England, to wait for the return of the commission, and for the having of it opened by an order of the court, and then to exhibit articles against the witness; and to take out another commission to bring in proof in support of such articles; (*s*) but the party may require the commissioners to adjourn their session to another day, and so from time to time, not extending to unreasonable delay, until all the testimony within their reach can be taken; (*t*) or another commission, for any such purpose, may be at once obtained to any other place, where the requisite testimony may be had. (*u*)

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commission from the Prerogative, now Orphans' Court. *Vallette's Dep. Com. Guide*, 213. And so too as far back as 1729, in all cases, where the parties were allowed by a special interlocutory order to take testimony before a justice of the peace, the depositions were always taken publicly as at present, *Townshend v Duncan, ante*, 81. But by the act of 1785, ch. 72, s. 14, which was passed and became a law on the 10th of March, 1786, the secret mode of taking testimony was totally abolished, and the parties are now allowed to attend at a public examination before the commissioners, and to propound to the witnesses such interrogatories as they may think proper.—(*r*) Moorhouse *v.* De Passou, 19 Ves. 433.—(*s*) Purcell *v.* McNamara, 8 Ves. 326; Wood *v.* Hammerton, 9 Ves. 145; Mill *v.* Mill, 12 Ves. 408.—(*t*) Forum Rom. 129; 1785, ch. 72, s. 14.—(*u*) These observations may seem to be at variance with that general rule of law, by which all our courts of justice are governed, in all cases, by which each party has thrown upon him the burthen of supporting his own case, and of meeting that of his adversary without knowing, before hand, by what evidence the case of his adversary was to be established, or his own opposed. *Wigram on Discovery*, 93; *Willan v. Willan*, 19 *Ves.* 591; *The King v. Holland*, 4 *T. R.* 691. That rule however, operates only so far as to protect a party from being compelled to set forth the proofs and circumstances he means to offer in support of his own case at the trial. But in courts of common law nothing is more frequent, than, after a witness has been examined, to call another to discredit or contradict what the previous witness had testified. The only difference between that mode of proceeding, and this, under a commission, is, that, under a commission, time may be allowed to send for and take the opposing testimony; but, that, in a court of common law, such testimony must be introduced during the trial and without delay. It might seem, that the removal of the mischief of surprise, by a public examination, would be more than counterba-