

notice, as if he were proceeding under a commission to take testimony, under former practice. He shall issue subpoenas for witnesses for either party, except where he is required to proceed *ex parte*; and he shall cause to come before him all witnesses subpoenaed, at the time appointed to be examined; and their attendance and duty to testify may be enforced by attachment, to be issued and returned as provided in section 250.

1888, art, 16, sec. 218. Rule 38.

**236.** All examinations of witnesses before the examiners shall be conducted in the presence of the parties, or their solicitors, if they think proper to be present; and the mode of examination shall be either by written interrogatories filed with the examiner, to be by him propounded to the witnesses, and the answers thereto written down by him, as has heretofore been the practice of commissioners in taking testimony; or the witnesses may be examined by the parties, or their solicitors, *viva voce*; and in such case, the answers of the witnesses shall be reduced to writing by the examiner, and the questions also, if necessary to the understanding of the answers of the witness, or if it be required by either party. The testimony produced by both parties shall be taken before the same examiner, unless, for special reasons, it be otherwise directed by the court or judge thereof; and all *viva voce* examinations shall, as near as may be, be conducted in the manner and order of the examination of witnesses in the trials of fact in the courts of common law. The defendant shall not be compelled to proceed with the taking of his testimony until the plaintiff has finished or declared he has none to take; nor shall the plaintiff be compelled to proceed with the rebutting testimony until the defendant has completed the testimony on his part.

*Ibid.* sec. 219. Rule 39.

**237.** In all examinations, whether conducted by written interrogatories or *viva voce*, at the conclusion of the examination by the parties, the examiner shall put to the witness an interrogatory in the following form: "Do you know, or can you state, any other matter or thing which may be of benefit or advantage to the parties to this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question between the parties? If yea, state the same fully and at large in your answer." And the examiner shall write down the answer to said interrogatory as part of the deposition of the witness.