

Particular interrogatories if any be may be put before the more General, because the answer to a General Interrogatory may influence the Dependent in his answer to Particulars which is not so readily diverted to when the particular are first moved. If, after a party hath Deposed in General, either upon the oath, or a General Interrogatory, he cannot be thereafter Examined upon any special Interrogatory that might infer a Contradiction to his Oath given on the General 30 Novemb. 1678. *But* said Court in Blair's & June 1679 Campbell contra Gait observed by Dolehouse. The said Examinator ought not to give up the Interrogatories to be sent to the party to swear, because he might be thereby assisted to contrive Evasive answers. The Relevancy of Interrogatories is of ten much disputed, and must be Determined by the Ordinar; who in case of Difficulty brings the question before the Lords in presence to be resolved by them. Where the Dependent hath protested for a qualified oath, the Judge qualified to his oath, the Ordinar; allows the same to be given, the quantity adjusted be Intrinsick or Extrinsick. If the pursuer has previously filed persons to Confound the Defendant at his Deposing, upon a warrant for that effect, these are allowed to be present at his Deposing, but not to put questions, or make answers. The oath when taken, is signed by the Exponent, if he can write, and by the Ordinar;. But if the Dependent cannot subscribe his own name, it is Mended in the Oath that he Deposed ~~he~~ cannot write, and the Judge's Subscription serves for all 21 Novemb. 1672. Barin contra Willon the same order as above, is observed in taking the pursuers oath, when he is to depone upon any thing referred to it by the Defendant.

When one appears upon a Diligence to Depose for, craving his having of writs called for by the Offer of the Diligence, he is sworn as a party. Then he must distinctly answer the following Interrogatories: if he hath such writs; if he had them since the Citation; or hath fraudfully put them away; or if he ever had them; if he know or suspect where they are; &c. Feb. 22 Feb. 1688. If he hath the writs, he should produce them at his Deposition. But if he don't think producing, and asking a probat cause why he did not bring them with him, as that he knew

not that such writs would be called for; or that these is a quantity of writs in such a Coffor or place; and he knows not what they are the Ordinar; will allow him a Competent time to produce them. Where in if he fail, he may be proceeded against as if he had never appeared. He is said to have fraudfully put writs away, who voluntarily since the Citation put them out of his Custody. Which being known toged by the Examinator, the Lords upon a petition offered by the party, will appoint the Exponer to be executed against the Exponent, and let those writs be put away he produced. Mean time his owning, that he put the writs away, will not militate against a third person, so long as the writs are not produced, the party losing his cause thro the Exponent's fault, will have action for Damage against him. Not only writs, wherein the use of the Diligence hath Interest, but also such as belong to others, where in he had no farther Interest, than in so far as they verify his Allegance, may be called for, to be put in the Exponer's hands, where they remain till the Conclusion of the cause, and then are delivered back to the proper Owners. But upon a Representation from them to the Lords, that the party is in Mourne, and in prosecution of the suit, the said party will be ordained to insist Vigorously in the principal cause, and if he do not, the writs will be ordered to be given back. If an oath be taken, the Ordinar; may writ thereupon, this is a clear oath, and signifying nothing, which oath warrants a Summons, &c. being thereon.

The producing of witnesses, and Examining them upon oath.

A Party may cite as many Witnesses as he pleases, but only 24 will be admitted and Examined for proving one and the same point, *Hotwood* Bral. 4th. Probation by witnesses. By the Ordinar; of France, it is prohibited to Examine more than ten witnesses to each fact in civil Matters, *Les Loix Civiles* &c. Form 1 part 2 div. 3 Tit. 6 Sect. 3. Art. 14. In Rome only seven witnesses upon each Article are received *Prosa* *Farin.* de Testibus Quest. 80 n. 117. For a Judge at his Discretion ought to stop an Useless Repetition. He Effrenate poles late ad *Maandos* homines Superflua Multitudine testimonium probatorem. 152 *Id.* Testibus. Altho two witnesses are sufficient to prove a fact, yet being their proof consists in the Conformity of their Depositions, and it often happens