

so easily suborned and prepared under hand, or despite the
find or favour, when their particular testimonies will be
known the publick use thereof is a sort of Confronting witness
es with the parties, which is frequently very useful, and
fudges have less occasion to be Arbitrary, when the Warrs
they proceed on are known Besides, great Mistakes that
frequently occurred in Advising Courts, are prevented by wil-
ling the Advocates know the oaths, who may clear things
seemingly inconsistent from other Matters of fact upon
which these depend. Publication of the Testimonies of wit-
nesses is also ordered a lth by the Court said Nov. 20 cap. 4. The
Expenses which the witnesses are at for their jour-
ney and for their attendance to give their testimony, are
repaid them by the party at whose instance they have be-
tided, and that by virtue of an order of the Judges according
as he shall see them L. 11 s. 22 Stat. 13 Ed. 1. If the party or
agent do not after the witnesses are examined pay will-
ly the Expenses modified or taxed by the ordinary to them
for their Journey and Attendance to give their testimony,
the ship gives a written order for payment within two
four hours; and in case of failure, orders an additional
liquid sum to be repaid for making the other Effects
by extracting an Act and raising homing and Exactions.
But sometimes when the use of the Diligence is a Bond, the
Ordinary grants a summary Caption Directed to Mag-
istrates empowering them to seize and imprison the delinquent
he pay the modified Expense.

2.

2.
The Manner of taking oaths by Commission.

Oaths are taken by Commissioners upon the appearance of parties before the Commission, within the time prefixed in the Commission, in the same manner as before Lords; with this Speciality, that these and any writs laid before the Commission, are instantly sealed up by him, and Directed to the Clerk of the process. Which is agreed to the Custom of other Countries. Prop. Farin. Ges. tit. 1. q. 1. 77. n. 143. Because such a Commission is given to examine witnesses, and not to publish their testimony.

The Common Exceptions against the Capacity of witnesses are to be observed by the Commissioner. When an

Any Extraordinary objections are Made, brought to Mention
the same, and Receive the Witness's cum Nota; Referring, the
Consideration of such objections to the Lord. If the party, or
witness whose oath is to be taken be absent, and the Commissioner
present or ready to swear them, Instruments are taken there
upon. Where all concerned are present, and the Commissioner
refuseth to give the oath, or the Adversary party will not Allow him
to do it, Instruments are also taken. The Judges may be com-
pelled to Execute the Lord's Commission Directed to them to
take oaths; private persons are not to be Compelled to Ac-
cept and Execute such Commissions granted to them Proff.

Farins lib. 11. 166.

Lect. 7.

The Ordinary Upon Concluded causes.

For Examining and preparing Plates of Concluded causes, contained in a Roll, called the Roll of causes to be prepared, one of the Lord is appointed Weekly (viz. 17 Sept. 4. Phil. W. & M. Who comes every Tuesday and Thursday at three o'clock to the session house, and sits at five, till of Even. 1 Novemb. 1693 where he is attended by the Frenchhouse Clerk, who lay before him according to the order of the Roll aforesaid, proposed to be prepared, and plates i.e. Subscribed there of drawn by them selves: setting forth the Nature of the cause, who are the parties, what was in incumbent on either of them to prove, and in what Manner, what writs for proving thereof lay, what the witnesses have Depended, and Making the particular parts of the writs or oaths insisted on and referred to in the plates, for storing the mind of the Lord at Reviewing.

such process are called in the order of the day, and parties prosecutors allowed to make appeals against the state formed by the clerk, and to present another state if they think fit. If the ordinary, after comparing the state or states with the law, writes and deposits, find any thing amiss, he corrects the same or frames another state. When the state is adjusted, the ordinary signs it, and modifies the clerks dues for preparing not exceeding three shillings eight pence. Nothing to be lastly paid to the collector by the parties hel of Regule 1696 Art. 7. when it is called a prepared state of the process.