

foreign nations to take testimony where the commissioners must be sworn, by some magistrate of the place, before they can proceed to act. So an affidavit verifying the truth of an answer, made before a magistrate duly authorized to administer an oath in the country where the respondent resides, has long been admitted as sufficient. The acts of foreign magistrates, in all such cases, are however considered as having been done under the authority of this court; and as deriving their sanction from the judicial power of this State, not from that of the foreign State. For, standing unconnected in the foreign State with that to which they relate here, they would be there wholly unintelligible and inoperative. This interchange of courtesies, in aid of judicial proceedings, seems to be as common among the nations of Europe, as it is with the several States of our Union.(e) And in all such cases it would seem, that the comity of nations is carried so far, that the public functionaries will not only suffer the commission to be executed by the commissioners to whom it is sent, but if necessary, will compel a witness to appear and testify, so that his deposition may be taken, and returned to the tribunal of the foreign nation whence the commission emanated.(f)

The tribunals of this State have often found it necessary to ask the assistance of the judicial power of the other States of our Union or of foreign countries to procure testimony or obtain the means of administering justice. And in doing so those courts alone who ask or accept such assistance can have the authority to regulate its nature, form and extent. And they have accordingly laid it down as a general rule, that such acts, although varying in form in each case according to circumstances, must yet contain all the requisites essential to such acts when done here.(g) But the court, in such cases, is not called on to give any faith, or credit, or to pass any opinion upon the effect of a judicial proceeding of *another* State. If it were, then that matter having been regulated by the Constitution and laws of the United States, it certainly would be bound to submit to those regulations so far as they applied. But the question, how far this court will ask for, or accept of affidavits taken in *another* State, as the medium of that

---

(e) *Dalmer v. Barnard*, 7 T. R. 251; *Ex parte Worsley*, 2 H. Blac. 275; *Omealy v. Newell*, 8 East, 364; *Hornby v. Pemberton*, Mosely, 59; *Gason v. Wordsworth*, 2 Ves. 325, 336; *Garvey v. Hibbert*, 1 Jac. & Walk. 130; *Braham v. Bowes*, 1 Jac. & Walk. 296.—(f) *Young v. Cassa*, 3 Eccle. Rep. 417; *Mitchell v. Smith*, 1 Paige, 237; *Mitf. Plea*. 186, notes.—(g) *Tidd, Pra.* 156.