

necessary for you to advise which, if any, of these three kinds of copies will be the appropriate method of proving any particular document.

In addition to the preliminary steps, which have been dealt with above, it may be expedient for the advocate to fortify his case by evidence taken on Commission, before the trial. This is provided for by Order XXXVII., Rule 5 :—

"The Court or a Judge may in any cause or matter where it shall appear necessary for the purposes of justice make any order for the examination upon oath before the Court or Judge, or any officer of the Court, or any other person and at any place of any witness or person, and may empower any party to any such cause or matter to give such deposition in evidence therein, on such terms, if any, as the Court or a Judge may direct."

Thus, if one of your witnesses is too unwell to attend at the trial, or intends to leave the country before the trial, you may apply by summons for an order for a Commission to examine him.

Similarly, if witnesses or the parties reside abroad, you may apply for an order for a Commission or for Letters of Request, to examine them abroad.

The distinction between a Commission and Letters of Request is that, whereas in the former the examination is conducted by officers appointed by the English Courts, in the case of the latter the examination is conducted through the judicature of the foreign country. And in the case of countries which, like Germany, object to the issuing of a Commission, Letters of Request must be resorted to.

The granting or withholding of orders for Commissions and Letters of Request is discretionary, and, so far as parties are concerned, an order will be more readily obtained for the examination of a defendant, than of a plaintiff, resident abroad. The details of the practice and the forms will be found in the Annual and Yearly Practices, under Order XXXVII., Rules 5, 6, 6a.

to which they are appropriate, see Roscoe's *Nisi Prius Evidence*, 18th ed., p. 96 *et seq.*; Best, p. 401 *et seq.*