

take such affidavit, affirmation or declaration. 56 V., c. 31, s. 27.

PART II.

APPLICATION.

Foreign
courts.

38. This Part applies to the taking of evidence relating to proceedings in courts out of Canada.

INTERPRETATION.

Definitions.

- 39.** In this Part, unless the context otherwise requires,—
- (a) 'court' means and includes the Supreme Court of Canada, and any superior court in any province of Canada;
 - (b) 'judge' means and includes any judge of the Supreme Court of Canada and any judge of any superior court in any province of Canada;
 - (c) 'cause' includes a proceeding against a criminal;
 - (d) 'oath' includes affirmation in cases in which by the law of Canada, or of the province, as the case may be, affirmation is allowed instead of an oath. R.S., c. 140, ss. 1 and 6.

Construc-
tion.

40. This Part shall not be so construed as to interfere with the right of legislation of the legislature of any province requisite or desirable for the carrying out of the objects hereof. R.S., c. 140, s. 8.

PROCEDURE.

Order for
examination
of witness in
Canada in
relation to
foreign suit,
etc.

41. Whenever, upon an application for that purpose, it is made to appear to any court or judge, that any court or tribunal of competent jurisdiction, in any other of His Majesty's dominions, or in any foreign country, before which any civil, commercial or criminal matter is pending, is desirous of obtaining the testimony in relation to such matter, of any party or witness within the jurisdiction of such first mentioned court, or of the court to which such judge belongs, or of such judge, such court or judge may, in its or his discretion, order the examination upon oath upon interrogatories, or otherwise, before any person or persons named in such order, of such party or witness accordingly, and by the same or any subsequent order may command the attendance of such party or witness for the purpose of being examined, and for the production of any writings or other documents mentioned in such order, and of any other writings or documents relating to the matter in question that are in the possession or power of such party or witness. R.S., c. 140, s. 2.