

A party to any civil suit may be summoned as a witness by the opposite party: and how: Penalty on such party not attending.

II. That whenever any party in such proceeding shall desire to call the opposite party as a witness, he shall either subpoena such party or give to him or his Attorney at least eight days' notice of the intention to examine him as a witness in the cause, and if such party shall not attend on such notice or Subpœna, such non-attendance shall be taken as an admission *pro confesso* against him in any such Suit or Action, unless otherwise ordered by the Court or Judge, in which or before whom such examination is pending, and a general finding or Judgment may be had against such party thereon, or the Plaintiff may be non-suit or the proceedings in such Action, or such Suit may be postponed by such Court or Judge, on such terms as such Court or Judge shall see fit to impose.

Commission when the party to be examined resides out of Upper Canada: penalty if such party refuse to attend.

III. And be it enacted, That whenever a party to any such suit or action is resident out of Upper Canada, it shall be lawful for the Court in which such suit or action is brought, or any Judge in Chambers, at the instance of the opposite party, to issue a Commission for the examination of such party, in the same manner as a Commission may be issued from any of the Superior Courts for the Examination of Witnesses; and if such party shall refuse to attend before such Commissioners, such refusal, proved by affidavit or otherwise, to the satisfaction of a Judge of the Court in which the suit is had, shall authorize a verdict or judgment to pass against such party, or he shall become non-suit: Provided that no such Commission shall be issued unless the party requiring such Commission shall state under oath, by affidavit, the facts intended to be proved before such Commission, and then the said Judge after being satisfied that such Commission is applied for in good faith, and not for purposes of delay, may issue such Commission.

Proviso.

Party charged with a criminal offence, not to give evidence for or against himself, &c.

IV. And be it enacted, That nothing herein contained shall render any person, who, in any proceeding, is charged with the Commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall, in any such proceeding, render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband, or shall, in any civil proceeding, render any person compellable to answer any question tending to criminate himself or herself, or to subject him or her to any prosecution for any penalty.

Probate of Will of a person dying out of U. C. but in Her Majesty's possessions, may

V. And be it enacted, That whenever any person has died or shall hereafter die in any of Her Majesty's possessions out of Upper Canada, having made a will sufficient to pass real estate in Upper Canada, and whereby any such estate shall