

Failure to
avoid office.

manner hereinbefore provided, and the omission to give such new bond shall render the appointment of the Clerk or Deputy Clerk so omitting void.

Deputy Clerks of the Crown to transmit any *Nisi Prius* record to Toronto, or deliver the same sealed up, on proper notice, &c.

III. Every Deputy Clerk of the Crown shall, within twenty-four hours after notice in writing delivered to him at his office, for that purpose, enclose, seal up and transmit by post to the proper principal office at Toronto, addressed to the Clerk thereof; or deliver to the Attorney giving such notice, on receiving from him a written receipt for the same, enclosed and sealed up, any record of *Nisi Prius* in his custody to be mentioned in such notice, together with all exhibits filed at the trial, and in default thereof, he may be adjudged guilty of a contempt of Court, and be dealt with in the discretion of the Court accordingly. And if after such notice the *Nisi Prius* record shall not be in Court at the time of moving any rule requiring a reference thereto, the party moving may, on filing an affidavit of the service of notice, and that the record was not delivered to the party serving the same, be allowed by the Court to move any such rule without the production of the Record or *Nisi Prius*.

Failure to be a contempt.

After such notice, a party may move although the record be not in Court; first filing affidavit of Notice.

And with respect to Bills of Exchange and Promissory Notes Be it enacted as follows :

Form of summons in actions on Bills or Notes, after 21st August, 1857.

IV. From and after the twenty-first day of August next, all actions upon Bills of Exchange or Promissory Notes, commenced in either of the Superior Courts of Common Law, within six months after the same shall have become due and payable, may be by writ of summons in the special form contained in the Schedule to this Act annexed, numbered one, and endorsed as is therein mentioned; and it shall be lawful for the Plaintiff on filing an affidavit of personal service of such writ within the jurisdiction of the Court or an order for leave to proceed as provided by the Common Law Procedure Act, 1856, and a copy of the writ of summons and the indorsements thereon, in case the Defendant shall not have obtained leave to appear, and have appeared to such writ according to the exigency thereof, at once to sign final judgment in the form contained in the schedule numbered two to this Act annexed (on which judgment no proceeding in error shall lie) for any sum not exceeding the sum endorsed on the writ, together with interest at the rate specified (if any), to the date of the Judgment, and a sum for costs to be fixed by rule of Court, unless the Plaintiff claim more than such fixed sum, in which case the costs shall be taxed in the ordinary way, and the Plaintiff, may upon such judgment issue execution forthwith.

Final judgment may be signed on proof of service, unless Defendant obtain leave to appear and do appear.

For what amount, &c.

How leave to appear may be obtained by Defendant.

V. A judge of either of the said Courts shall, upon application within the period of twelve days from such service, give leave to appear to such writ and defend the action on the defendant paying into Court the sum endorsed on the writ, or upon affidavits satisfactory to the Judge, which disclose a legal