

notice of the inscription of such cause on the roll *des enquêtes* as herein-before required and directed, and the defendant or defendants in such cause shall not appear, or appearing shall not be ready to proceed, the said *enquête* shall be had *ex parte* on the behalf of such plaintiff or plaintiffs in such cause. Provided always, that if the said defendant or defendants shall afterwards shew to the Court good cause for not having so proceeded, the said Court shall and may upon the application of the said defendant or defendants set aside such *enquête* so taken *ex parte*, or make such other order and grant such other relief in the premises as to law and justice may appertain.

VI. And be it further enacted, that before any examiner so to be named and appointed as aforesaid, shall proceed to receive any evidence in any cause, he shall in open Court take and subscribe the following oath: I, A. B. do swear that I will, according to the best of my skill and knowledge, truly, faithfully, and without partiality to any or either of the parties, take the examinations and depositions of all and every Witness and Witnesses to be produced and examined before me, in any cause or causes, as one of the examiners of this Court; so help me God.

VII. Provided always, and be it further enacted, that if after the inscription of any such cause and notice given in manner aforesaid, the defendant or defendants therein shall have any essential Witnesses to examine who may reside more than ten leagues distant from the place fixed in such notice for adduction of evidence before any examiner as aforesaid, it shall and may be lawful for such defendant or defendants within three days after notice duly served upon such defendant or defendants to apply to one or more of the Justices of the Court in which such cause may be pending for a rule or order for the examination of such Witnesses so residing at a distance, giving two entire days notice thereof to the plaintiff or plaintiffs, which order or rule shall by such Justice or Justices be granted upon an affidavit of the facts, and after hearing the parties thereon, and the said rule and order shall be in the form and executed in the manner herein-after prescribed and directed for the examination of Witnesses residing at a distance; and thereupon such *enquête* before such examiner shall proceed for the examination of such Witnesses as the parties respectively may have to produce, but such *enquête* shall not be deemed closed until the period fixed for the execution of the said last mentioned rule or order for the examination of Witnesses residing at a distance shall have