

Liber H. S.
No. 1

[Where the
Cause is to
be tried
when no
Occasion ap-
pears for an
Imparlance]

tiff Shall be desirous of a Speedy Trial that if the Plaintiff Should Send a Copy of the Declaration in the Case With the Writ and Cause the same to be served on or delivered to the Defendant or left at his or her last Place of abode twenty days At the Least before the Appearance Court it Should be lawful for the Justices of the said Court and they are by that Act required to Proceed to tryal the same Court and if the Defendant Should refuse or neglect to Answer or Plead to render Judgment for the Plaintiff With Cost of Suit unless Sufficient Cause Should be Showed by the Defendant Why there Should be an Imparlance and that as Jurors are not Sum- moned to the Provincial Courts but the facts tried in the Several Counties Where they have arisen or Shall arise So that When the Defendant Pleads any matter of Fact triable by a Jury the Issue Cannot be tried at the Appearance Court Be it therefore Enacted and declared that where Copies of declarations are Served or left According to the direction of this Act and no Sufficient cause Shewn for an Imparlance and that the Defendant Should Plead a matter of fact Which is required to be done at the Appearance Court that then and in such Case the Fact Shall be tried at the first Assizes that Shall happen after the Appearance Court in the County Where the Fact hath Arisen or Shall arise, any Law usage or Custom to the Contrary Notwithstanding

[Affidavit of
Witnesses
unable to
attend the
Assizes, as
valid as if
the Deposi-
tion of such
witnesses
was person-
ally given in
Court]

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And Whereas Justice may be delayed or People lose their Rights for Want of the Testimony of Witnesses Who may happen to be so Sick or Impotent as to be unable personally to Attend the tryal of Causes to give their Evidence Viva Voce Without Apparent Hazard of their lives or Health Be it therefore Enacted by the Authority advice and Consent aforesaid that where any Witness Shall be Summoned by any Plaintiff or Defendant and Shall be really so impotent Sick or Infirm that he or She Shall be unable to Attend According to Such Summons without the Apparent Hazard of the Life or Health of Such Witnesses (to be made Appear to the Satisfaction of the Court) that then and in every Such Case, the Party Summoning Such Witness may have the Affidavit on Oath or Affirmation if the Witness be a Quaker of Such Sick or Impotent Witness taken before any Magistrate not being of Kin to the Parties and that any Affidavit so taken (the Adverse party always having timely Notice and Opportunity to Cross ex- amine Such Witnesses) Shall be received as evidence on the Tryall of the Cause Wherein Such Witness Shall be Summoned as if the Witness Was Present and Should deliver his or her Testimony Viva Voce any Law Custom or usage to the Contrary notwithstanding Provided always that if any Such Witness Shall wilfully and cor- ruptly Swear or Affirm falsely that then and in every such Case He or She Shall be liable to the Same Prosecution Penalty and For- feiture as Persons guilty of or committing corrupt and Wilfull Perjury are liable to