

the trial in the court of common law. This is a proceeding which can only be regarded as one of the modes whereby a party may obtain testimony to sustain his case; and therefore, as on all similar applications, the granting of which may be attended with delay, where the propriety of granting it does not sufficiently appear from the nature of the case; or the documentary evidence, called for, is not described in the proceedings of the suit in which the application is made, the petition should be at least as specially descriptive of the evidence and proof of facts, expected to be obtained from the books and papers required, as in an affidavit, stating the nature and materiality of the proof expected to be obtained from an absent witness, without whose testimony, a party alleges, that he cannot safely go to trial, and, therefore moves for a continuance of his case in a court of common law. The cases are so strikingly analogous, that the rules and principles, with few exceptions, applicable to one class of cases, may be well applied to the other. (c) In this instance, the petition is entirely too indefinite and general.

Whereupon, it is *Decreed*, that, the cause shewn being deemed sufficient, the decree of the 11th instant be rescinded; and the petition be dismissed with costs to be taxed by the register.

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(c) 1 Vern. 334; Jessup v. Duport, Barnar. 192; Steward v. The East India Company, 9 Mod. 337; Smith v. Northumberland, 1 Cox, 363; Burton v. Neville, 2 Cox, 242; Oldham v. Carleton, 4 Bro. C. C. 88; Rougemont v. The Royal Exchange, &c. 7 Ves. 304; The Princess of Wales v. Liverpool, 1 Swan. 119; Jones v. Lewis, 1 Cond. Cha. Rep. 438; Mendizabel v. Machado, 1 Cond. Cha. Rep. 553.