

## HOUSE....No. 156.

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HOUSE OF REPRESENTATIVES, April 5, 1856.

[Mr. STODDARD, of Worcester, moves to amend the Bill to enable Parties in Civil Actions to be Witnesses therein, by striking out all after the enacting clause, and inserting the following :—]

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1    SECT. 1. Parties of record to civil actions, may be  
2 witnesses therein in their own behalf, or otherwise, in  
3 the same manner as if they were not such parties or  
4 persons.

1    SECT. 2. In no case shall a party be examined as  
2 a witness on his own behalf, or be admitted to testify  
3 in relation to facts, which, if true, must be equally  
4 within the knowledge of the opposite party, if such  
5 opposite party be an inhabitant of a foreign state or  
6 country, and is not, at the time, within the jurisdic-  
7 tion of the court in which the action is pending.

1    SECT. 3. When the action is prosecuted or de-  
2 fended by the representatives of a deceased person,  
3 the opposite party, if examined as a witness on his  
4 own behalf, shall not be admitted to testify at all, in  
5 relation to facts, which, if true, may have been equally  
6 within the knowledge of the deceased person.

1     SECT. 4.   When an executor, administrator or trustee,  
2     having no interest beyond his liability to costs, is  
3     a party to the action, his examination as a witness  
4     shall not be subject to any other restrictions or rules,  
5     than that of ordinary witnesses.

1     SECT. 5.   Nothing herein shall, in any manner,  
2     affect the law relating to the attestation of the execution  
3     of last wills and testaments, or of any other instrument,  
4     which by law are required to be attested.

1     SECT. 4.   When any party to a suit resides without  
2     the State, or is absent from the State during the pendency  
3     of the suit, and the opposite party desires his  
4     testimony, a commission, under the rules of court,  
5     may issue to take his deposition; and it shall be the  
6     duty of such non-resident or absent party, upon such  
7     notice to him of the time and place appointed for  
8     taking his deposition as the court shall order, to appear  
9     and give his deposition. If such party shall refuse,  
10    or unreasonably delay giving his testimony, as  
11    above provided, he may be non-suited or defaulted by  
12    order of the court, unless his attorney will admit the  
13    affidavit of the party desiring his testimony of what  
14    the absent party would say, if present, to be used as  
15    testimony in the case.

1     SECT. 7.   When one of several plaintiffs, or defendants,  
2     is used as a witness by the opposite party, testimony  
3     may be introduced to contradict or discredit  
4     him, by his co-plaintiffs or co-defendants, in the same  
5     manner as if he was not a party to the suit.

1    SECT. 8. The rules of evidence in special proceed-  
2 ings of a civil nature, such as before referees, audit-  
3 ors, county commissioners, and courts of probate and  
4 insolvency, shall be the same as herein prescribed for  
5 civil actions.

