

Case No. 16,892.

{1 McLean, 413.}³

VABNUM V. RUNION ET AL.

Circuit Court, D. Indiana.

May Term, 1839.

POWER OF ATTORNEY TO CONFESS JUDGMENT—WAIVER.

1. A power of attorney which authorizes an attorney to confess a judgment, in a certain suit, naming the parties, then pending in the circuit court of the United States, authorizes the judgment to be entered, though the process has not been served on the party.
2. The power is a substantial waiver of the service of the process.

{Cited in brief in *Keith v. Kellogg*, 97 Ill. 148.}

{This was an action by Joseph B. Varnum against Runion, Pharis and Bond.}

Mr.—appeared for the plaintiff and moved for judgment against one of the defendants on default, and presented a power of attorney by Bunion and Bond, authorizing him to confess a judgment. The writ had not been served on Bond; but the power of attorney bears date subsequent to the commencement of the suit, and refers to it, and authorizes the attorney to confess a judgment in the case then pending. This the court considered, as authorizing the confession of the judgment against Bond, though he had not been served with process. There is no express waiver of process, but there is, substantially, a waiver of the service of the process. A judgment was entered against one of the defendants by default; and against the other two, under the power of attorney, by confession.

³ {Reported by Hon. John McLean, Circuit. Justice.}