ANONYMOUS.

Case No. 432.

{5 Blatchf. 134.}[1]

Circuit Court, S. D. New York. Jan. 21, 1863.

WITNESS—ATTENDANCE AND FEES—MILEAGE.

Traveling fees to a witness are allowable only to the extent a subpoena will run: that is, for any distance within the district. but for not exceeding 100 miles from the place of trial, unless the distance is wholly within the district.

{Cited in Beckwith v. Easton, Case No. 1,212; Dennis v. Eddy, Id. 3,793; Haines v. McLaughlin, 29 Fed. 70; Young v. Merchants' Ins. Co., Id. 275; The Vernon, 36 Fed. 116; Buffalo Ins. Co. v. Providence & S. S. S. Co., 29 Fed. 237; Wooster v. Hill, 44 Fed. 819. Disapproved in U. S. v. Sanborn, 28 Fed. 303, 304.}

See Eastman v. Sherry, 37 Fed. 844; Smith v. Chicago & N. W. Ry. Co., 38 Fed. 321; The Syracuse, 36 Fed. 830.}

Before NELSON, Circuit Justice, and SHIPMAN, District Judge.

In this case, which was a question of the taxation of costs, SHIPMAN, District Judge, with the concurrence of Mr. Justice NELSON, held, that traveling fees to a witness were allowable only to the extent a subpoena would run; that is, for any distance within the district, but for not exceeding 100 miles from the place of trial, unless the distance was wholly within the district.

[1] {Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.}

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