

Case No. 6,386.

HENRY V. RICKETTS ET AL

[1 Cranch, C. C. 580.]¹

Circuit Court, District of Columbia.

Nov. Term, 1809.

WITNESS—ATTENDANCE—SUBPOENA—MORE THAN ONE HUNDRED MILES.

The court will not, in a civil suit, attach a witness who resides more than one hundred miles from the place of trial, nor issue a subpoena commanding him to go and testify before a magistrate.

[Action at law by Henry's executors against Ricketts, Newton & Co.]

R. J. Taylor, for defendants, moved for a rule on James Taylor to show cause why an attachment should not issue against him for a contempt in not obeying a summons to appear and testify as a witness, and to bring with him certain papers. The witness resided in Norfolk, Virginia, more than one hundred miles from the place of trial.

THE COURT told Mr. Taylor they would hear him further in support of the motion. THE COURT, on hearing, refused to lay a rule, being of opinion that a witness, residing more than one hundred miles from the place of trial, could not be compelled to attend; and refused to issue a subpoena commanding the witness to appear before the mayor of Norfolk to testify. See Acts Cong. Sept 24, 1789, § 30 (1 Stat 88), and March 2, 1793, § 6 (1 Stat 333).

¹ [Reported by Hon. William Cranch, Chief Judge].