

CLARK, ADM'X, v. AMERICAN DOCK &
IMPROVEMENT CO.

Circuit Court, S. D. New York. November 25, 1885.

COSTS—WITNESS FEES—WITNESS NOT EXAMINED.

Witness fees are taxable for necessary and proper attendance in court, although the witnesses were not actually called and sworn on the trial.

Appeal from Taxation of Costs.

WHEELER, J. The clerk has taxed for witnesses not actually called and sworn on trial. No facts are reported as found as a ground of taxation or for refusing taxation. It is taken from the fact of taxation that all facts necessary were found; and no question arises except whether witnesses can be taxed for upon any state of facts when they are not called. Witness fees are taxable for attendance in court. Rev. St. § 848. This of course means necessary and proper attendance in good faith, which the clerk must have found. Taxation of clerk approved.

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