

WOOSTER *v.* HILL *ET AL.*

*Circuit Court, D. Vermont.*

January 17, 1891.

WITNESS FEES—ATTENDANCE IN ANOTHER DISTRICT.

Witness fees in civil cases are not to be taxed for travel over any greater distance than a subpoena would run, and hence, where a witness resident in one district attends to have his deposition taken in another, he is not entitled to fees for travel before he reached the latter district.

In Equity. Appeal from taxation of costs.

*Stephen C. Shurtleff*, for plaintiff.

*Kittredge Haskins*, for defendants.

WHEELER, J. The question arises upon the taxation of fees for travel of witnesses residing in Hardwick, Vt., from their residence there to Hartford, Conn., where their testimony was taken. These witnesses could be compelled to attend to give their depositions at Hartford, only by a subpoena issued by the clerk of one of the courts of the United States in that district. Rev. St. U. S. § 868. And perhaps they could not be compelled to give their depositions there at all, as they did not at the time reside in that county, and no witness under a *dedimus potestatem*, is required to attend at any place out of the county of his residence. Id. §§ 866, 870. But, if found there, their depositions might be taken there, if done without objection on the part of themselves or others. But a subpoena for them would not run out of that district, and perhaps not out of that county. In the direction of their travel, however, the lines of the county and district are the same. In civil cases, fees are not to be taxed for travel of witnesses over any greater distance than a subpoena would run. *Anon.*, 5 Blatchf 134; *Dennis v. Eddy*, 12 Blatchf. 198. Let travel be taxed from the line of the county, which is the line of the district of Connecticut, towards Vermont to Hartford.