

C A P. II.

An ACT to empower the Juſtices in the ſeveral Counties within this Province to iſſue Summons's for the Attendance of Witneſſes on Trials.

Preamble.

***** H E R E A S great Inconveniencies attends the Summoning Witneſſes, whoſe Place of Reſidence is diſtant from the Place where the Court for Trials is held.—For Remedy whereof.

When neceſſary to ſummon Perſons as Witneſſes, whoſe Reſidence ſhall be 5 Miles from where the Court is held, Juſtices to iſſue Summons for ſuch Witneſſes to attend at the Trial of the Cauſe.

I. Be it Enacted by the Governor, Council and Aſſembly, and by the Authority of the ſame it is Enacted, That when it is found neceſſary to ſummon any Perſon or Perſons as Witneſs or Witneſſes to attend and give Evidence in any Trial, whoſe Place of Reſidence ſhall be Five Miles or upwards from the Place where the Court at which ſuch Trial is to be had or held, it ſhall and may be lawful for the Juſtices in the ſeveral Counties, to iſſue a Summons for ſuch Perſon or Perſons to attend as a Witneſs or Witneſſes at the Trial of the ſaid Cauſes, which Summons ſhall be in Form following :

Form of Summons.

You A. B. are ſummoned perſonally to be and appear before at on the Day of next, then and there to give Evidence in a Cauſe depending in ſaid Court between A. B. Plaintiff and C. D. Defendant, and not to depart without Leave of ſaid Court, and in this you are not to fail under Penalty of being found guilty of a Contempt of ſaid Court, Witneſs one of his Maſteſty's Juſtices of the Peace for the County of this Day of A. D.

Perſons ſummoned to give Evidence on any Trial ſhall reſuſe to give their Attendance (not having reaſonable Excufe) or ſhall willfully withdraw themſelves or reſuſe to give Evidence, the Party offending liable to ſuch Pains and Penalties as Perſons acting in Contempt of Subpœna iſſued from any Court.

II. And be it alſo Enacted, That when any Perſon or Perſons ſhall be ſummoned to give Evidence upon the Trial of any Iſſue between Party and Party, or in Behalf or againſt any Priſoner upon Trial, and ſuch Perſon or Perſons ſo ſummoned ſhall reſuſe or neglect to give his or her Attendance at the Time and Place mentioned in ſuch Summons, (not having any juſt or reaſonable Cauſe therefore to be allowed of by the Court or Juſtice or Juſtices, before whom the Trial ſhall be,) or willfully withdraw himſelf or herſelf before ſworn, or ſhall reſuſe to give his or her Evidence in every ſuch Caſe, the Party ſo offending ſhall be liable to ſuch Pains and Penalties as ſuch Perſon or Perſons would have been liable to, if he or they had acted in Contempt of a Subpœna, iſſued out of the Court at which ſuch Perſon or Perſons Attendance was ſo required.

Provided that no Perſon ſhall be obliged to give Evidence without their reaſonable Charges allow'd.

III. Provided always, That no Perſon ſhall be obliged to give Evidence in any Cauſe before he or ſhe be paid or ſecured to be paid his or her reaſonable Charges for Attendance to be allowed of and ordered by the Court, Juſtice or Juſtices.