

Laws of His Majesty's Province of Upper Canada, passed in the year 1835. Toronto: Robert Stanton, 1835.

5 William IV – Chapter 4

An Act to enable Suitors in the District Courts to procure the attendance of Witnesses from any District in this Province, and to authorize certain persons therein named to take affidavits in the said District Courts. Passed 16th April, 1835.

Whereas the want of means of compelling the attendance upon any trial in a District Court, of a Witness resident within another District than that in which such trial is to take place, is prejudicial to the interests of Suitors, and frequently occasions the institution in the Court of King's Bench of actions which in their nature are of the proper cognizance of the District Court, thereby subjecting the parties to delay and expense beyond what would otherwise be necessary: Be it therefore enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain entitled, "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'*" and by the authority of the same, That from and after the passing of this Act it shall be lawful for the Clerk of the Crown and Pleas, or for his Deputy in any of the respective Districts of this Province, in which a witness or witnesses residing or living within another District is required to attend upon the trial of a cause in the District Court, to issue a Subpoena commanding the attendance of such witness or witnesses at the time and place required, which Subpoena shall be issued upon a proper praecipe being filed for that purpose, and shall be under the Seal of the Court of King's Bench, and shall bear teste in the same manner as Writs of Subpoena to be issued in causes instituted in the Court of King's Bench.

II. And be it further enacted by the authority aforesaid, That any Witness failing to attend in obedience to such Subpoena shall be subject to the same penalties and remedies by action or by attachment for contempt of the Court of King's Bench, as in case of wilful disobedience of a writ of Subpoena requiring the attendance of a Witness in a suit depending in that Court.

III. And be it further enacted by the authority aforesaid, That all Affidavits in any cause pending, or hereafter to be brought in any District Court in this Province, may be taken before any Commissioner appointed for taking Affidavits in His Majesty's Court of Kings Bench in this Province, as well as before the Judge or Clerk thereof.