

passed in the first year of Her present Majesty's Reign, entitled, An Act for the regulation of Juries, shall be held and are hereby declared not to extend to the County of Halifax.

VI. *And be it enacted*, That this Act shall continue and be in force for two years, and thence to the end of the then next Session of the General Assembly. To continue 2 years.

CAP. II.

An Act to regulate the issuing of Commissions, and the taking of Depositions in the Supreme Court.

(Passed the 5th day of March, A. D. 1845.)

BE it enacted, by the Lieutenant-Governor, Council and Assembly, That in all Civil Causes pending in the Supreme Court of this Province, in which either party shall be desirous to take the depositions of witnesses residing out of this Province, to be read as evidence in such causes, it shall and may be lawful for the Judges of said Court, or any of them, upon sufficient cause being shewn by affidavit on behalf of the party desiring the same, to issue a Commission or Commissions, if the said Judges, or any of them, shall deem it necessary to issue more than one to either of said parties, under the Seal of said Court, for taking such depositions, in such manner and under such restrictions and regulations as the said Judges, by any rules or orders for that purpose made, shall direct and appoint, and that such depositions, so taken as aforesaid, shall be read in evidence.

Court authorized to issue Commissions to examine witnesses.

II. *And be it enacted*, That it shall and may be lawful for the Justices of the Supreme Court to appoint and Commission, under the seal of said Court, or under their Hands and Seals, or under the Hands and Seals of any two of them, in such of the Counties and Districts of this Province as the said Justices of the said Supreme Court, or any two of them, shall think proper and necessary, one or more Commissioners for taking depositions *de bene esse* of witnesses aged, infirm, or otherwise unable to travel, and of witnesses about to depart from this Province.

Commissioners for taking depositions de bene esse to be appointed.

III. *And be it enacted*, That the costs attending the issuing and taking such depositions, under such Commission or Commissions as aforesaid, under the authority of this Act, shall be regulated by rule and order of the said Supreme Court for that purpose to be made.

Costs to be regulated by the Court.

IV. *And be it enacted*, That when it shall so happen that any witness or witnesses who shall be judged necessary to be produced on the Trial of any Civil Cause depending in said Supreme Court shall be infirm, aged, or otherwise unable to travel, or when any such witness or witnesses are about to leave the Province, it shall and may be lawful for any one of the Judges of the said Supreme Court, or for any Commissioner or Commissioners, duly appointed in such behalf where the Cause is to be tried, on due notice being given to the adverse party to be present, if he see fit, to take the deposition of such infirm or aged person or persons unable to travel, or who is obliged to leave the Province: *Provided always*, that if such witness or witnesses refuse to be examined in said Cause, it shall and may be lawful for the Judges of said Court, or any of them, on sufficient cause being shewn by affidavit by the party requiring the same, to order the examination of any such witness or witnesses before any Judge, or any Commissioner or Commissioners, duly appointed for such purpose, and by the same, or any subsequent order or orders, to give all such directions touching the time, place, and manner of such examination, and all other matters and circumstances connected with such examination as may appear reasonable and just.

Depositions of persons aged, &c. to be taken.

Provido.

V. *And be it enacted*, That should any such witness or witnesses, aged, infirm, or unable to travel, or about to leave the Province as aforesaid, reside in any other County of this Province than where the Cause is to be tried as aforesaid, it shall and may be lawful for the Judges of said Court, or any of them, upon sufficient cause

Testimony of persons aged, &c. not residents of County where cause is to be tried—how to be taken.