

APPENDIX.

Act regulating the summoning of witnesses, and their depositions before the Courts.

WHEREAS the giving of judicial evidence is a mutual and gratuitous service, which the members of the same civil society should render each other ; Whereas the fulfilling of this duty is one of the essential conditions of the administration of justice, and thence in part arises the jurisdiction of the Courts over the litigants of all jurisdictions, to compel them to appear and depose before them ;

WHEREAS, seeing the gratuitous nature of such duty, the sole indemnity which a witness may lawfully exact from the party who calls upon him to depose before the Courts, consists in the estimate of the real loss occasioned him by the performance of such duty, that is to say, in the repayment of his travelling expenses and other disbursements occasioned by such testimony, which, under no pretext whatever, should become a source of profit to him ;

WHEREAS, according to these principles, the value of the time spent by the witness giving his testimony, cannot be a lawful cause of indemnity, and it is only by a favor based on equity that the tribunals can allow to a poor and needy witness, whose family depends upon his labor for their sustenance, the value of the loss of his time, and further, that such benevolent interpretation should not be allowed to its full extent to the prejudice of a party as poor and as needy, the poor being bound to assist each other as well as the rich ;