

Case No. 6,471.

HIGGINSON'S CASE.

{1 Cranch, C. C. 73.}¹

Circuit Court, District of Columbia.

March Term, 1802.

WITNESS—SURETY FOR APPEARANCE—COMPENSATION DURING IMPRISONMENT.

A witness, who for want of surety to appear and testify, has been imprisoned, is entitled to the daily compensation for the time of imprisonment.

{Cited in *Robinson v. Chambers*, 94 Mich. 473, 54 N. W. 176.}

Eleanor Higginson had been ordered by a justice of the peace to recognize with surety in a small sum, to appear and testify as a witness against Daniel Hennissee, on a charge of felony; but being a stranger and unable to get surety, she had been committed to prison and detained until the trial.

Mr. Mason, for the United States, moved that she should be allowed payment for her attendance during the whole time she was so detained. The act of 1753, c. 13, only provides for the payment of the prison fees, and makes no allowance for the time of the witness.

THE COURT allowed the witness to prove her attendance, and ordered her to be paid for the whole time she was detained, it being her misfortune and not her fault that she could not obtain security for her appearance.

¹ [Reported by Hon. William Cranch, Chief Judge.]