

Case No. 7,083.

IRWIN v. DUNLAP.

{1 Cranch, C. C. 552.}¹

Circuit Court, District of Columbia.

July Term, 1809.

DEED—PROOF—SUBSCRIBING WITNESS.

A subscribing witness to the execution of a deed may be compelled to attend court in Alexandria, to prove it.

A deed had been executed by [Thomas] Dunlap and [Thomas] Irwin in presence of C. Lee, R. J. Taylor, and T. Swann. C. Lee and R. J. Taylor had proved the execution of the deed. T. Swann refused to prove. Irwin obtained a subpoena for T. Swann to “testify, and the truth to say on behalf of Thomas Irwin, in relation to the execution of a certain deed by James Dunlap.”

The subpoena being served, Mr. Swann stated that the deed was executed upon an understanding between the attorneys for both parties that Irwin should secure the purchase-money by a mortgage, and that the deed was delivered with that understanding; but Irwin now refuses.

THE COURT was of opinion that a subscribing witness may be compelled to attend the court to prove a deed, so that it may be recorded.

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