

Case No. 16,230. UNITED STATES v. SCHOLFIELD.
[1 Cranch, C. C. 130.]¹

Circuit Court, District of Columbia.

July Term, 1803.

CONTEMPT—ATTACHMENT OF “WITNESS.

An attachment of contempt, for not attending as a witness, must not be served in the courthouse. If the witness arrives before service of the attachment, and makes a reasonable excuse, the court will countermand the attachment on payment of the costs of issuing it.

Three of the clerks in the public offices, being summoned as petit jurymen, were excused on that ground, on affidavit.

Attachment for not attending yesterday as a witness. He attended this day before the attachment was served. The deputy marshal (Pratt) had called the witness out of the room in which the court sat, into the corridor or vestibule adjoining, and which was the common entry into the court-room, and there served the attachment. Upon the witness being called upon to answer on oath to the attachment, and giving a reasonable excuse, he was discharged on payment of costs.

Afterwards, the same day, Mr. Woodward, for the witness, moved that he might be relieved from the payment of the marshal's costs of service of the attachment; and the above facts appearing on oath of the witness himself and admitted by the deputy marshal, THE COURT ordered the return of the attachment to be quashed, and the attachment to be entered countermanded, on payment of the cost of issuing the attachment.

MARSHALL, Circuit Judge, doubting whether the presence of the court was to be considered as extending beyond the room itself in which the court sits.

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