

Case No. 17,379. WELLFORD ET AL. V. EAKIN.
[1 Cranch, C. C. 264.]¹

Circuit Court, District of Columbia.

Nov. Term, 1805.

ACTION ON NOTE—SUBSCRIBING WITNESS—PROOF OF HANDWRITING.

If the subscribing witness to a note be not within reach of the process of the court, it is not necessary to produce him or to prove his handwriting; but the defendant's handwriting may be proved.

Debt on note. Mr. Vasse was a subscribing witness. The plaintiff gave evidence that Vasse had been summoned at the last term from Staunton, in Virginia, but had heard he had gone to Tennessee. The witness never resided within the reach of the process of this court. See *Smith v. Carolin* [Case No. 13,020]; *Jones v. Lovell* [Id. 7,478]; *Waterston v. Cook*, not reported; *Macubbin v. Lovell* [Case No. 8,928].

THE COURT said that where the subscribing witness resides out of the reach of the process of this court, it is not necessary to produce him nor to prove his handwriting; but the plaintiff may produce evidence of the writing of the defendant.

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