

Case No. 1,405.

EX PARTE BILL.

{3 Cranch, C. C. 117.}¹

Circuit Court, District of Columbia.

May, 1827.

ARREST—PRIVILEGE—WITNESSES.

A recommitment of a debtor upon a ca. sa. after he has been out for more than a year upon a prison-bonds bond, is not a breach of his privilege as a witness and party, bound to attend the court.

Habeas corpus [for the discharge of A. T. F. Bill from custody.] Upon the return it appeared that Mr. Bill had been committed in execution upon a ca. sa., and had taken the benefit of the prison bounds, upon giving the bond and security required by law, more than a year ago. At the expiration of the year the plaintiff required the marshal to recommit him to close custody, agreeably to the act of congress of June 24, 1812, § 3, (2 Stat 755,) “to amend the laws within the District of Columbia,” by which it is enacted, “that the benefit of the prison rules shall not be allowed to any debtor hereafter taken or charged in execution within the said district for more than one year from the date of the bond given by him or her for keeping within the said rules, after the expiration of which time, if the person so taken or charged in execution shall not be discharged by due course of law, it shall be the duty of the marshal or other officer, to whose custody such person was committed, to recommit him, or her, to close jail and confinement there to remain until the debt for which, he or she was taken or charged in execution shall be paid, or until he or she shall be discharged under the act of congress for the relief of insolvent debtors within the District of Columbia.”

The marshal, accordingly, so recommitted him during the session of this court, and while Mr. Bill was bound to attend this court as a witness, and had a cause depending in court for trial at this term. Mr. Bill moved to be discharged, and claimed the right of a witness, and of a party to be free from arrest during the session of the court.

THE COURT (nem. con.) refused to discharge him, being of opinion that it was not a new arrest; but was analogous to the case of the bail taking his principal, which is said

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to be an exception to the general rule. See 3 Starkie, Ev. pt. 4, pp. 1726, 1727. The prisoner was remanded.

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