

Case No. 2,476.

CARTER V. CUTTING ET AL.

[2 Cranch, C. C. 58.]¹

Circuit Court, District of Columbia.

Nov. Term, 1812.

DISTRICT OF COLUMBIA—CHANGE OF VENUE.

An issue, sent by the orphans' court to this court, to try the validity of a will, cannot be removed to the other county, under the act of congress of the 24th of June, 1812, § 8.

[See note at end of case.]

{Petition by the heirs of Sally Carter to revoke the probate of her will, devising her estate to Sally C. Cutting, wife of J. B. Cutting.}

An issue was sent by the orphans' court of this county, to this court, to try the question *devisavit vel non*.

R. J. Taylor, for the defendant, made a motion to change the venue to "Washington county, founded upon the defendant's affidavit of partiality and general prejudice in this county. This motion was made under the act of congress (2 Stat. 757) of the 24th of June, 1812, § 8, "to amend the laws within the District of Columbia."

THE COURT, however (THRUSTON, Circuit Judge, absent), was of opinion that it was not a case which could be transferred to another county under that act.

See, also, *Alexander v. Wise*, May term, 1844 [unreported].

{NOTE. Petitioners applied to the orphans' court of Alexandria county to revoke the probate of the will. Without issuing a summons, that court dismissed the petition, whereupon petitioners appealed to the circuit court of the District of Columbia, which affirmed the action of the orphans' court. Petitioners then appealed to the supreme court of the United States, where the decree of the circuit court was reversed, and the cause remanded, with directions to proceed to a hearing upon the merits. See *Carter v. Cutting*, 8 Cranch (12 U. S.) 251.}

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