

Case No. 3,722.

DECATUR v. YOUNG.

[5 Cranch, C. C. 502.]<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1838.

AFFIDAVIT OF ATTACHMENT—RESIDENCE OF PLAINTIFF.

In an affidavit to obtain an attachment under the Maryland act of 1795, c. 56, it is not necessary to state the plaintiff to be a citizen of the county of Washington, D. C.

{This was an action by Susan Decatur against David Young.}

Mr. Morfit, as amicus curiae, moved the court to quash the attachment, which had been issued under the Maryland act of 1795, c. 56, because the affidavit, upon which the attachment was awarded, did not state that the plaintiff was a citizen of the county of Washington, although she was stated to be a citizen of the District of Columbia. The law is only in force in this county, and the plaintiff must be either a citizen of this county or of one of the states of the Union; but as the affidavit only states that she was a citizen of the District of Columbia, she may be a citizen of the county of Alexandria, in which case she would not be entitled to the remedy under the statute, the words of which are that “if any person whatsoever, not being a citizen of this state, and not residing therein, shall or may be indebted unto a citizen of this state, or of any other of the United States,” “such creditor may” apply to a judge, &c., and obtain a warrant to the clerk of the court to issue an attachment, &c. A citizen of Alexandria, cannot be said to be a citizen “of this state, or of any other of the United States.” The words, “this state,” in order to make the law applicable to this part of the state which was ceded by Maryland, must be construed to mean this county. Mr. Morfit cited *Mandeville v. Jarrett*, 6 Har. & J. 497, and *Yerby v. Lackland*, Id. 416.

THE COURT stopped Mr. Marbury, in reply, and overruled the motion, nem. con.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]