

Case No. 4,983.

FOSTER v. SIMMONS.

[1 Cranch, C. C. 316.]<sup>1</sup>

Circuit Court, District of Columbia.

June Term, 1806.

SLAVERY—IMPORTATION INTO WASHINGTON.

An importation of a slave from the county of Alexandria, into the county of Washington, is an importation into the state of Maryland, within the meaning of the act of 1796, c. 67, as adopted by congress on the twenty-seventh of February, 1801.

Petition for freedom on the ground that the petitioner [William Poster, a negro] was born and on 27th of February, 1801, resided in that part of the District of Columbia which was ceded by Virginia to the United States, with Mr. Chapman, his owner, who sold him to Mr. Payne, who sold him to the defendant [William Simmons] in Washington county, in this District, and sent him to the defendant, from the county of Alexandria, into this county. By the act of congress of the 27th of February, 1801 (2 Stat 103); it is enacted that the laws of Maryland, as they then existed, should continue in force in that part of the District which was ceded by that state. And the act of Maryland, 1796, c. 67, was then in force, by which it is enacted “that it shall not be lawful to import or bring into this state, by land or water any negro, mulatto, or other slave for sale or to reside in this state; and any person brought into this state as a slave contrary to this act, if a slave before, shall thereupon cease to be the property of the person so importing, &c, and shall be free.”

Mr. Caldwell, for defendant, moved the court to instruct the jury, that if they should find that on the twenty-seventh of February, eighteen hundred and one, the petitioner resided with, or under the authority of his master in Alexandria, his master had a right to send him into the county of Washington, and the petitioner did not thereby gain his freedom.

Mr. Mason, on the same side, contended that all locality as states ceased as to the two parts of the District at the time of the transfer of jurisdiction by the two states to the United States. That a law for the forfeiture of property ought to be construed strictly in favor of the property in the master. That neither the letter nor spirit of the act of Maryland has been violated. That the defendant has not brought a slave into the state of Maryland.

Mr. Jones and Mr. Hiort, for petitioner, contended, that as the law in Washington county was to continue as it was before the twenty-seventh of February, eighteen hundred and one, and as the law before that day, in the county of Washington, was, that no slave could be lawfully imported into that county, the law is the same yet, and that a bringing from Alexandria county to Washington is the same as from Virginia to Maryland. If this adopted law is to be construed so strictly, there is no limitation to importation of slaves, even directly from Africa. The act of congress of the third of May, 1802, c. 52, § 7 (2 Stat

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193), only authorizes slaves to be brought from Virginia and Maryland into the District as they might before the twenty-seventh of February, 1801. That is, Virginia slaves may be brought into Alexandria county, and Maryland slaves into Washington county, but it does not authorize the bringing of slaves from Virginia into Maryland, nor from Maryland into Virginia. Lacy carried Lee's slaves from Alexandria to Georgetown, and the court decided it was a carrying out of the state of Virginia, within the meaning of the act of assembly of Virginia of the 25th of January, 1798, p. 374, §§ 6, 7.

THE COURT (nem. con.) refused the instruction, saying that they must take the whole act, or no part of it If this construction be not given to the statute, there is no law to prevent the importation of slaves into the District of Columbia. It was the intention of congress to continue in force in this port of the District all the laws as they then existed.

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