

Case No. 5,107.

FRERE v. MUDD.

[2 Cranch, C. C. 407.]<sup>1</sup>

Circuit Court, District of Columbia.

April Term, 1823.

BANKRUPTCY—ARREST ON DEBT DUE BEFORE DISCHARGE.

An insolvent debtor, arrested for a debt due before his discharge, can only be relieved by the court, or a judge of the court, before whom the process is returnable.

A writ of habeas corpus was issued to bring up the body of Mudd, who was arrested on a ca. sa. issued by a justice of the peace for a debt under \$50. It was suggested, upon the return, that all the debt except \$8 was due before his discharge under the insolvent act, and the court was now moved, under the tenth section of the act, to discharge him upon his paying the \$8 and interest and costs. The execution was, under the act of congress of the last session (1st March, 1823), returnable before the justice. 3 Stat 743.

THE COURT (nem. con.) refused to discharge him, because, by that section of the act, the power to discharge, in such cases, is given only to the court or a judge of the court, to whom the execution is returnable.

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