

Case No. 8,440.

LOCKE v. CANNON.

[2 Cranch, C. C. 186.]<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1819.

BAIL IN CIVIL CASE—RIGHT TO APPEAR WITHOUT BAIL—PLEA TO JURISDICTION.

Upon a common-law attachment under the Virginia statute of 26th December, 1792 (section 6), the court may, in its discretion, suffer the principal defendant to appear without bail, and without discharging the attached effects, at the first term after the return of the attachment, to plead to the jurisdiction.

This was a common-law attachment against an absconding debtor, issued by a justice of the peace, under the act of Virginia of 26th of December, 1792 (page 116, sections 6–8). A vessel belonging to the defendant and one Primus Woodland was attached, and judgment entered at this term, which was the first term after the attachment.

Mr. Mason, for defendant, offered to appear without bail, for the purpose of pleading that the defendant was never an inhabitant of the District of Columbia, and therefore could not be an absconding debtor, and the justice had no jurisdiction to issue the attachment.

Mr. Swann, for plaintiff, contended that the defendant could not appear without bail.

Mr. Mason, in reply. If bail be given, the defendant can only plead to the debt; not to the jurisdiction.

THE COURT (MORSELL, Circuit Judge, absent) set aside the judgment, and permitted Mr. Mason to appear for defendant without bail, and without discharging the attached effects; and to plead to the jurisdiction as suggested.

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