

MAY v. BAYNE.

{3 Cranch, C. C. 335.}¹

Circuit Court, District of Columbia. Oct Term, 1828.

APPRENTICES—HOW BOUND—JUSTICE OF
PEACE—ORPHANS' COURT.

Two justices of the peace cannot bind out an apprentice while the orphans' court is in session.

{Action by Thompson May against Henry T. Bayne.} Petition by an apprentice to be discharged.

Mr. Ashton, for petitioner.

The justices had no right to bind him out. The father was a resident of Alexandria county, and not poor or indigent. He might, under the 3d section of the Maryland act of 1793, c. 45, have bound out his son, but he has not done so. His assent was not absolute; but on condition that he could agree with the master as to the terms. Besides, the orphans' court was in session on that day, and the justices had no jurisdiction. See the Maryland law of 1794, c. 47, § 1. The indentures are dated June 7th, 1826, and were on the same day recorded in the orphans' 1216 court, but there is no evidence that the court saw or approved them.

R. S. Coxe, contra.

It is not necessary that the orphans' court should not be in session, although that court should have been in session on that day, yet it does not appear that it was in session at the very time the indentures were executed. As the father did not reside in the county, his assent was not necessary.

THE COURT (nem. con.) was of opinion that as the orphans' court was in session on the 6th, and adjourned to, and actually sat on the 7th of June, the justices of the peace had no jurisdiction. The petitioner was discharged.

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

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