

EX PARTE MINOR.

{2 Cranch, C. C. 404.}¹

Circuit Court, District of Columbia. April Term. 1823.

JUSTICE OF PEACE—CAPIAS—WARRANT OF
ARREST—BEFORE JUDGMENT.

A justice of the peace in Alexandria county has no power to issue a capias ad respondendum, or warrant of arrest, for a small debt, before judgment.

Upon the return of the habeas corpus directed to Leonard Adams, a constable of the county of Alexandria, it appeared that Mr. Minor was in his custody under a warrant of arrest, or capias ad respondendum, issued by Adam Lynn, Esq., a justice of the peace of that county, directed to the said Leonard Adams, commanding him to take into his custody the body of the said Thomas Jefferson Minor, and him safely keep, so that he should have him before him or some other justice of the peace for that county, on the 5th day of June, 1823, to answer to Broders, Evans & Co. in a plea of trespass on the case for one dollar due by account. This precept was dated the 5th of June, 1823. By the act of congress of the 27th of February, 1801 [2 Stat. 103], the laws of Virginia were continued in force in the county of Alexandria, as they then existed; and it was enacted that the justices of the peace, to be appointed under that act, should, in all matters civil and criminal, have all the powers vested in, and should perform all the duties required of, justices of the peace as individual magistrates, by the laws thus continued in force therein; and should have cognizance of personal demands to the value of twenty dollars, exclusive of costs. By the act of the assembly of Virginia of the 16th of January, 1801, the justices of the peace, as individual magistrates, were forbidden to issue even an

execution against the body of the debtor, and a fortiori, a *capias ad respondendum*. This law was one of the adopted laws under the act of congress of the 27th of February, 1801 [2 Stat. 103], and continued in force in the county of Alexandria until the act of congress of the 1st of March, 1823 [3 Stat: 743], extending the jurisdiction of the justices of the peace in the recovery of debts to the amount of fifty dollars, which they are “to try, hear, and determine,” and “to give judgment” “in the same manner and under the same rules and regulations, to all intents and purposes,” as they were then “authorized and empowered to do when the debt and damages did not exceed the sum of twenty dollars, exclusive of costs.” This act of March 1, 1823, does not designate the process by which the defendant is to be brought before the magistrate, but leaves it as it was before.

THE COURT, upon this view of the case, ordered Mr. Minor to be discharged from the custody of the constable.

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

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