

Case No. 14,711. UNITED STATES V. CALVIN ET AL.
[2 Cranch, C. C. 640.]¹

Circuit Court, District of Columbia.

April Term, 1826.

SLAVERY—INDICTMENT FOR RIOT AND ASSAULT AND BATTERY—HOW TRIABLE.

This court has not jurisdiction of riot, and assault and battery, by slaves, in Alexandria county.

Indictment for a riot, and assault and battery, by slaves, on a constable.

Mr. Taylor, for defendants' masters, moved to quash the indictment, because by the law of Virginia of December 17, (Laws 1792, p. 187, § 11), it is enacted that "riots, routs, unlawful assemblies, trespasses, and seditious, speeches by a slave or slaves, shall be punished with stripes at the discretion of a justice of the peace; and he who will, may apprehend and carry him, her, or them before such justice." This law was continued in force in the county of Alexandria by the act of congress of the 27th of February, 1801 (2 Stat. 103). The common-law punishment of misdemeanors by fine and imprisonment is not applicable to slaves, who can have no property, and whose time and labor belong to their masters, so that imprisonment would be no punishment to them.

Mr. Swann, for the United States. By the act of the 27th of February, 1801 (2 Stat. 103), this court has cognizance of all crimes and offences. The jurisdiction of the justice may be concurrent.

THE COURT (nem. con.) was of opinion that this court has not jurisdiction; and that the indictment must be quashed, and the prisoners committed to take their trial before a justice of the peace.

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