Case No. 14,982.

UNITED STATES v. DONAHOO.

{1 Cranch, C. C. 474.}[1]

Circuit Court, District of Columbia. Dec. Term, 1807.

FORCIBLE ENTRY AND DETAINER—WHERE INQUEST TAKEN—GRAND JURORS.

In forcible entry and detainer, it is not necessary that it should appear upon certiorari, that the inquest was taken on the spot where the force was used: nor that the jurors should appear to be qualified according to the requisites of the common law.

{Cited in Holmead v. Smith, Case No. 6,630.}

Inquisition for forcible entry and detainer brought up by certiorari.

Mr. Morsell moved to quash the inquisition, because the inquest was not taken on the spot where the force is alleged to have been used, and because it did not appear that the jurors had the common-law qualifications of grand jurors; this being a proceeding at the common law.

F. S. Key, contra. The issue is joined below on the traverse of the force, and the proceedings were there arrested by the certiorari. The defendant cannot take advantage of any thing but what would avail him in arrest of judgment. The warrant to the marshal is, to summon sufficient and indifferent persons to inquire upon their oath, &c, and it does not appear on the proceedings that they were not sufficient.

THE COURT (FITZHUGH, Circuit Judge, absent) refused to quash the inquisition on either of the grounds suggested.

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