

Case No. 2,458.

CARROLL v. WHITCROFT.

[1 Cranch, C. C. 609.]<sup>1</sup>

Circuit Court, District of Columbia.

Dec. Term, 1809.

REPLEVIN—GOODS DISTRAINED FOR PUBLIC DUES—MUNICIPAL TAXES.

The act of Maryland, 1785, c. 34, which forbids the replevin of goods distrained for public dues, is not applicable to the corporation taxes of the city of Washington.

At law. Replevin of personal property distrained for taxes due to the city of Washington.

Mr. Caldwell and Mr. Key, for defendant, objected that by the act of Maryland, 1785, c. 34, and 1790, c. 53, goods distrained for taxes cannot be replevied, and moved to quash the writ of replevin. The question is whether the law of Maryland is applicable to taxes imposed by the corporation of Washington on its inhabitants. They are within the same reason. In the case of *Tayloe v. Varden* [Case No. 13,771], at the last term of the court, the law of Maryland respecting sales for taxes was considered by both sides as in force.

Mr. Law and Mr. Jones, contra. The act of Maryland of 1785, applies only to the state taxes of Maryland, and applies only to collectors of such taxes. It does not apply to county taxes; a fortiori not to corporation taxes. It applies only to collectors of arrearages of state taxes. So also the act of 1790. By the act of 1786, c. 12, the commissioners are to hear complaints of abuse of the power of distress. The act of Maryland did not apply to the corporation taxes of Baltimore or Annapolis.

F. S. Key, in reply. The law does not apply to the city of Annapolis. There never was a state tax in Maryland. The only taxes are county taxes, laid, and the collectors appointed by the levy court. The law applies to county collectors, and with the same reason to the city of Annapolis.

THE COURT (nem. con.) was of opinion that the act of Maryland did not apply to taxes laid by the corporation of Washington; and refused to quash the replevin.

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