

Case No. 4,223.

DYER v. COYLE.

[2 Cranch, C. C. 684.]<sup>1</sup>

Circuit Court, District of Columbia.

May Term, 1826.

REPLEVIN—GOODS DISTRAINED FOR TAXES.

Goods distrained by a collector of taxes in the city of Washington, cannot be replevied without a special order from a justice of the peace, as required by the Maryland act of 1790, c. 53.

Replevin for goods distrained by a city collector of taxes in Washington.

Mr. Wallach, for defendant, moved the court to quash the writ, or that the court would direct a non-pros to be entered; because the goods were distrained by the city collector for taxes due to the corporation of Washington.

By the twelfth section of the amended charter of Washington, of May 15, 1820, it is enacted that the provisions of the Acts of Assembly of Maryland (1785, c. 34, and 1790, c. 53), relating to the right of replevying property taken in execution for public taxes, shall apply to all cases of personal property taken by distress to satisfy taxes imposed by virtue of that act. The Maryland act of 1785, c. 34, prohibits replevin of goods taken in execution for taxes and public dues, but the act of 1790, c. 53, permits it upon application to a magistrate and his warrant therefor. No such warrant had been obtained.

Mr. Smith, for plaintiff, contra, relied upon the fact that the property, for which the tax was laid, was not liable to taxation.

THE COURT (nem. con.) directed the non-pros to be entered.

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