

MURRAY v. BECK.

{2 Cranch, C. C. 677.}<sup>1</sup>

Circuit Court, District of Columbia. May Term, 1826.

REPLEVIN—RETORNO BOND—RETURN OF  
PROPERTY.

If goods be taken in execution and replevied by a third person, the court, upon the return of <sup>1047</sup> the writ of replevin, will order a return of the property upon the usual retorno-habendo bond.

Replevin.

Mr. Morfit, for defendant [Joseph W. Beck], upon the return of the writ, moved for a return of the property. The defendant was a constable, and had levied an execution on a hackney coach and horses, in possession, and as the property, of Michael Murray. His brother Thomas (the plaintiff,) sued out this writ of replevin, claiming title to the property under a bill of sale from Michael, which was, in fact, executed three days after the fl. fa. came to the hands of the defendant, but was antedated fifteen days, with the confessed intention to avoid this execution and to secure a debt due from Michael to Thomas.

THE COURT ordered a return of the property upon the usual retorno-habendo bond.

MORSELL, Circuit Judge, contra, being of opinion that the Maryland act of 1785, c. 80, § 14, did not apply, nor authorize a return in such a case, where an officer, acting under an execution, is defendant in replevin. Ideo quaere.

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

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