

Case No. 16,955.

VIOLETTE v. TYLER.
ENGLISH v. SAME.

[2 Cranch, C. C. 200.]¹

Circuit Court, District of Columbia.

April Term, 1820.

ATTACHMENT—DUTY OF MARSHAL—PRIORITIES.

1. When the marshal has several writs of attachment put into his hands, he must return all the properly as attached on each of them.
2. Quære, whether the writ which first came to his hands, or the writ first levied, has a preference; or whether the attaching creditors shall come in *pari passu*.

There were several writs of attachment at law. Violette's was the first which came to the hands of the marshal. English brought his afterwards, and broke into the house and showed the goods to the marshal, who attached them on Violette's writ as well as English's, and so returned them.

Mr. Swann, for English, claimed the priority, because he had first shown the goods. The law is not the same as upon an execution which binds the goods from the delivery of the writ to the marshal. English is entitled to the benefit of his diligence.

At the last term the court was divided upon this question. (THRUSTON, Circuit Judge, absent.) At this term it came on again.

THE COURT (MORSELL, Circuit Judge, *contra*) was of opinion that the marshal ought to return both writs levied upon the whole property found; and CRANCH, Chief Judge, was of opinion that the first writ which came to the hands of the marshal had the preference. THRUSTON, J., was of opinion that all the attaching creditors should come in *pari passu*. MORSELL, J., was of opinion that the attachment first levied had priority, but that, as both were simultaneously levied, the distribution should be *pari passu*.

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