

Case No. 17,913.

WISE v. WITHERS.

[1 Cranch, C. C. 262.]<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1805.<sup>2</sup>

JUSTICE OF THE PEACE—LIABILITY TO MILITIA DUTY.

A justice of the peace in the District of Columbia, is not an officer, judicial or executive, of the government of the United States, and is liable to do militia duty.

Trespass for distraining goods for a militia fine; special justification under a warrant, &c; replication, that the plaintiff was a justice of the peace; demurrer and joinder. The act of 3d of March, 1803 (2 Stat. 215), to provide for the organization of militia of the District of Columbia, excepts from enrolment all those who are exempted from military duty by the laws of the United States; and the act of the 8th of May, 1792 (1 Stat. 272), exempts from military duty “the officers, judicial and executive, of the government of the United States.”

THE COURT (CRANCH, Circuit Judge, contra) decided that the defendant, who was a justice of the peace in the District of Columbia, was not an officer, judicial or executive, of the government of the United States.

This judgment was reversed by the supreme court. 3 Cranch [7 U. S.] 331.

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

<sup>2</sup> [Reversed in 3 Cranch (7 U. S.) 331.]