

Case No. 1,347.

BERNARD v. HERBERT.

{3 Cranch, C. C. 346.}<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1828.

DETINUE—WHEN LIES.

Detinue will lie for a slave, although the defendant obtained the possession tortiously.

At law. Detinue for a slave. Mr. Wise, for the defendant, prayed the court to instruct the jury, that if the defendant obtained possession of the slave tortiously, the plaintiff cannot recover in this cause; and cited Selw. N. P.

Mr. Neale, for the plaintiff, was stopped by THE COURT, who said that the plaintiff might waive the trespass, and refuse to give the instruction.

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