

Case No. 2,884.

CLEMENTSON v. BEATTY.

[1 Cranch, C. C. 178.]¹

Circuit Court, District of Columbia.

July Term, 1804.

PLEA IN ABATEMENT.

If the contract was with the defendant and another as joint partners, the defendant cannot take advantage of it but by plea in abatement.

At law. Assumpsit [against P. Beatty, Jr.] for goods sold and delivered

Mr. Mason objected that the goods were delivered to Fisher & Beatty jointly as partners.

Mr. Swann contended that he could not take advantage of this on the general issue, and cited the case of Bice v. Shute [unreported].

CRANCH, Circuit Judge, stated that he considered the principle to be laid down generally, that where a partnership was alleged by the defendant, he must plead it in abatement and name all the partners.

Mr. Mason abandoned the point.

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