

Case No. 3,711.

DEAN v. TUCKER.

[2 Cranch, C. C. 26.]<sup>1</sup>

Circuit Court, District of Columbia.

July Term, 1811.

INSURANCE ASSOCIATION—POWER OF MAJORITY.

The members of an insurance association are bound by the act of the majority, unless there be some restriction in the articles of association.

This was an action for money had and received.

Dean was entitled to a dividend on premiums received by the insurance association, of which Tucker was chairman, and the plaintiff a member. The association had voted to advance to James Wilson a sum of money, on account of a claim for a loss. The advance was made, and Wilson's note taken to refund in case the loss was not finally established. Dean objected to the advance. The broker of the association (Goverman) applied Dean's dividend to his proportion of the advance to Wilson.

E. J. Lee, for plaintiff.

C. Simms, for defendant

THE COURT (nem. con.) instructed the jury, at the prayer of the defendant's counsel, that if they should be satisfied, by the evidence, that there was no restriction in the articles of association, (which were lost) then the members of the association were bound by the act of the majority, as to all matters within the purview of the association; and that the payment, or advance of money, on account of losses, was a matter within the purview of the association; and that the plaintiff, being a member, could not recover in this action.

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