

Case No. 4,701.

FAW v. DAVY.

{1 Cranch, C. C. 440.}¹

Circuit Court, District of Columbia.

July Term, 1807.²

EVIDENCE—EXPLANATION OF WRITTEN SUBMISSION BY
PAROL—ARBITRATION.

1. Parol evidence may be given to explain the expression “certain controversies and accounts” in a written submission.
2. An award made upon part only of the subjects submitted, will be set aside.

{See note at end of case.}

THE COURT heretofore {in April term, 1802 (Case No. 3,663)} had admitted parol evidence in this case to explain the expression “certain controversies and accounts,” in the written submission, and now being satisfied, by the evidence, that certain flour accounts were intended to have been submitted, and that the arbitrators had not considered those accounts, but made an award upon only part of the subjects submitted, set aside the award and ordered an account to be taken by a master; the cause having been set for hearing by consent.

{NOTE. On appeal to the supreme court the decree of the circuit court was reversed, Mr. Chief Justice Marshall delivering the opinion. In reference to the objection that the arbitrators had only settled part of the subjects submitted, it was held that the defendant had not shown that he was injured by the omission, and it was unnecessary to decide whether, had he been injured, a court of equity could or could not have afforded relief. Davy v. Faw, 7 Cranch (11 U. S.) 171.]

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

² [Reversed in 7 Cranch (11 U. S.) 171.]