

Case No. 4,994.

FOWLE ET AL. V. BOWIE.

{3 Cranch, C. C. 291.}¹

Circuit Court, District of Columbia.

May Term. 1828.

PRACTICE AT LAW—FAILURE TO PLEAD—DEFAULT.

Although the term should continue beyond the rule-day, the plaintiff is entitled to judgment by default, if the defendant did not plead by that day.

[This was an action by Fowle and Daingerfield against Robert W. Bowie.] The rule to plead expired in November, 1827. The May term was continued by adjournment beyond the rule day. The defendant pleaded in abatement on the 6th of December, 1827, during the adjourned May term.

The plaintiffs' counsel contended that it was too late, and that judgment should be entered by default

Mr. Key, for defendant, contended that if he pleaded before the expiration of the term in which the rule was laid, he was in time.

But THE COURT (nem. con.) was of opinion that the rule-day being before the expiration of the term, made no difference; and that the plaintiffs were entitled to judgment by default

[NOTE. See Fowle v. Bowie, Case No. 4,995.]

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