

Case No. 5,817.

GRIFFIN T. JEFFERS.

[5 Cranch, C. C. 444.]<sup>1</sup>

Circuit Court, District of Columbia.

March Term, 1838.

ASSUMPSIT—ACCOUNT—EVIDENCE.

If the defendant reads a part of the plaintiff's account, filed with the declaration, in evidence to the jury, he thereby makes the whole account evidence for the plaintiff.

Indebitatus assumpsit, "for sundry matter and articles properly chargeable in account, as by a particular account thereof herewith into court exhibited appears," amounting to \$97.93.

Upon the trial, at March term, 1836, Mr. Z. C. Lee, for defendant [Matthias Jeffers], in order to prove certain dates, read in evidence to the jury a part of the plaintiff's account, which had been filed with the declaration.

Mr. Coxe, for plaintiff [Peter Griffin], contended, and prayed the court to instruct the jury, that the defendant's counsel, by reading a part of the account to the jury as evidence, had made the whole account evidence for the plaintiff.

THE COURT (THRUSTON, Circuit Judge, absent) gave the instruction as prayed. Verdict for the plaintiff, \$97.93.

Mr. Lee moved for a new trial on the ground of misdirection of the jury, and cited the case of *Gracy v. Bailee*, 16 Serg. & R. 126, abridged in 1 *Wheeler*, Abr. 170.

But THE COURT overruled the motion. Judgment for plaintiff.

See *Harrison v. Rowan* [Case No. 6,141]; *Blight v. Ashley* [Id. 1,541]; *Bell v. Davis* [Id. 1,249], in this court, at December term, 1826; *Coote v. Bank of U. S.* [Id. 3,203], in this court at the same term; and *Smith v. Coleman* [Id. 13,029], in this court, at Washington, April term, 1821.

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