

Case No. 7,937.

KROUSE ET AL. V. DEBLOIS.

[1 Cranch, C. C. 138.]¹

Circuit Court, District of Columbia.

July Term, 1803.

INDEBITATUS ASSUMPSIT—SPECIAL AGREEMENT.

The plaintiff cannot recover upon a general indebitatus assumpsit, if a special agreement be proved.

General indebitatus assumpsit and quantum valebat for 418 pounds of beef sold and delivered. The defendant offered to prove a special agreement between the plaintiffs [Krouse & Gloyd] and defendant, on which the beef was delivered.

Mr. Mason, for plaintiffs, moved the court to instruct the jury, that he was entitled to recover for the beef delivered, although a special agreement should be proved.

But THE COURT (MARSHALL, Circuit Judge, absent) refused to give the instruction. The authorities cited were: Esp. N. P. 130, 138, 140; Rolleston v. Hibbert, 3 Term R. 412; Cates v. Knight, Id. 444; Cutter v. Powell, 6 Term R. 320; Payne v. Bacomb, Doug. 651; Robinson v. Bland, 2 Burrows, 1088; Precedents of Declarations (Boston, June, 1802) pp. 18, 19.

Mr. Mason prayed leave to amend, which was granted, on payment of costs and a continuance.

[The case was subsequently tried, and a verdict had for the defendant. Case No. 7,938.]

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