

Case No. 17,012.

VOSS v. BAKER.

[1 Cranch, C. C. 104.]¹

Circuit Court, District of Columbia.

Dec. Term, 1802.

TRESPASS.

In trespass for breaking up a scow, if the defendant, knowing that a third person had committed the trespass, received from him the timbers and planks, knowing them to be the property of the plaintiff, he is guilty of the trespass. Quære.

Trespass for breaking up a scow. THE COURT instructed the jury that if the defendant, knowing that Tuel committed a trespass in taking and breaking up a scow of the plaintiff, received from Tuel the timbers and planks of the scow, knowing them to be the property of the plaintiff, which had been so taken, he is answerable in this action, being equally as guilty as Tuel.

MARSHALL, Circuit Judge, absent

(This opinion was grounded upon the principle that in trespass there are no accessories; and that in a case where a person would be an accessory in felony, he will be a principal in trespass.)

Mr. Woodward, for defendant, moved the court to instruct the jury, that if they should be of opinion that the defendant did not receive the plank, &c, till after the action brought, he could not be liable in this suit, although the principal trespass was committed before the bringing of the action.

KILTY, Chief Judge, was inclined to give the instruction as prayed.

CRANCH, Circuit Judge, contra, that the act shall relate back to the time of the principal trespass. (Quære.)

Verdict for the defendant

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