

Case No. 17,368.

WELCH v. HOOVER.

[5 Cranch, C. C. 444.]²

Circuit Court, District of Columbia.

March Term, 1838.

AGENCY—PROOF OF AUTHORITY—AGENT AS WITNESS.

1. An agent is a competent witness to prove his own authority, if not in writing; and is not incompetent by reason of his liability to either of the parties.
2. A parol authority will support a written contract.

Assumpsit, for feeding cattle, &c.

Mr. Brent, for plaintiff [Sylvester Welch], offered to examine Mr. Owens, as a witness, to prove that he, as agent of the defendant, contracted to purchase of the plaintiff seventy-four head of cattle; \$500 to be paid in cash, and the residue by the 1st of November, when the defendant was to take the cattle away.

Mr. Bradley, for defendant [John Hoover], objected to the testimony of Mr. Owens, until his agency should be proved; and that he was not competent to prove his own agency; and that, if proved, he was not competent, because interested?

THE Court, however (THRUSTON, Circuit judge doubting), permitted the witness to be examined without a release from either party; and decided that he was competent to prove his own authority, if it was not in writing. See Starkie, Ev. pt. 4, p. 55.

Mr. Bradley then objected, that a parol authority will not support a written contract made by the agent.

But THE COURT (MORSELL, Circuit Judge, absent) overruled the objection.

Verdict for plaintiff, \$472.32.

² [Reported by Hon. William Cranch, Chief Judge.]