ARMSTRONG v. CARSON.

Case No. 543.
{2 Dall. 302.}[1]

Circuit Court, D. Pennsylvania. April Term, 1794.

ACTION ON JUDGMENT—PLEADING.

Plea of nil debent to action brought on a judgment obtained in a state court of another state, inadmissible.

{Cited in Banks v. Greenleaf, Case No. 959; Jacquette v. Hugumon, Id. 7,169; Taylor v. Carpenter. Id. 13,785; Burnham v. Webster, Id. 2,179.}

At law. A judgment having been obtained in the supreme court of the state of New Jersey, an action of debt was brought upon it here; and the defendants pleaded nil debent.

But Bradford contended, that, consistently with the federal constitution, (article 4, § 1,) and the act of congress of 26th May, 1790, (1 Swift's Ed. p. 115,) the plea was inadmissible. The constitution declares that "full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state." And the act provides, that those records and judicial proceedings, being authenticated in the mode prescribed, "shall have such faith and credit given to them in every court within the United States, as they have by law or usage in the courts of the state, from whence the said records are, or shall be taken." It is a general principle, that a debt cannot be denied, without denying the instrument on which it is founded; and the only question left open, by the act of congress, is—whether the courts of New-Jersey would sustain any other plea than nul tiel record, if the present action had been brought there.

Ingersoll declined arguing the point for the defendant, thinking it clearly against him.

WILSON, Circuit Justice. There can be no difficulty in this case. If the plea would be bad in the courts of New-Jersey, it is bad here: for, whatever doubts there might be on the words of the constitution the act of congress effectually removes them; declaring in direct terms, that the record shall have the same effect in this court, as in the court from which it was taken. In the courts of New-Jersey no such plea would be sustained; and, therefore, it is inadmissible in any court sitting in Pennsylvania.

Bradford then proposed settling the interest; but WILSON, Justice, observed, that he had had more than one occasion to object to the court's interposing, in any form, to assess damages. In some states, he said, it had, indeed, grown into a practice; and the courts had in that, and, perhaps, in many other instances, done the business which ought to go to a jury. Lewis referred to a case in the supreme court of the United States, in which this point had been made, tho' not directly, decided: but the judge said, it was not the foundation of the judgment, of the court, and that, in his opinion, a writ of enquiry was the regular mode of proceeding.

It being suggested, however, that the usage in the state courts was to enter the judgment generally; and that the plaintiff must ascertain the debt, and issue execution at his own peril; that mode was adopred on the present occasion. Judgment for the plaintiff.

[1] {Reported by A. J. Dallas, Esq.}