

**Case No. 844.** BANK OF ALEXANDRIA v. CLARKE.

[2 Cranch, C. C. 464.]<sup>1</sup>

Circuit Court, District of Columbia.

April Term, 1824.

NEGOTIABLE INSTRUMENTS—STATUTE OF LIMITATIONS—NEW  
PROMISE—INDORSER A COMPETENT WITNESS.

1. In an action by the indorsee of a promissory note against the maker, the indorser is a competent witness for the plaintiff, (without a release,) to prove an acknowledgment of the debt so as to take the case out of the statute of limitations.

[See *Mason v. Masi*, Case No. 9,244; *Gaither v. Lee*, Id. 5,182.]

2. The defendant said he thought the plaintiff had charged up the note to his account, if that was not the case he would “attend” to it; this is sufficient to rebut the plea of the statute of limitations.

At law. Assumpsit, by the [Bank of Alexandria] indorsee against [Edward W. Clarke] the maker of a promissory note for \$64.25. [Judgment for plaintiff.]

A verdict was taken for the plaintiff subject to the opinion of the court, whether the deposition of C. Neale, the indorser of the note, be admissible as evidence in this cause, without a release from the plaintiff; and, if admissible, whether it be sufficient per se to take the case out of the statute of limitations. Judgment to be rendered for plaintiff or defendant according to the opinion of the court on the above points.

THE COURT, at December term, 1824, (CRANCH, Chief Judge, contra,) gave judgment for the plaintiff. See *Barnes v. Ball*, 1 Mass. 73, and *Rice v. Stearns*, 3 Mass. 225; *Gaither v. Lee*, in this court, at June term, 1820, [Case No. 5,182;] and *Knowles v. Stuart*, at April term, 1824, [Case No. 7,900.]

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