

Case No. 883. BANK OF COLUMBIA v. WRIGHT.
[3 Cranch, C. C. 216.]¹

Circuit Court, District of Columbia.

Dec Term, 1827.

WITNESS—OATH AND AFFIRMATION—LAW OF MARYLAND.

By the law of Maryland, witnesses can be permitted to testify upon affirmation, only when they are members of some religious society who profess to be conscientiously scrupulous of taking an oath.

[See *King v. Pearson*, Case No. 7,790.]

Mr. Daniel Kurtz, being called as a witness for the plaintiffs, objected to taking the usual oath; and said he held the doctrine of the Society of Friends upon that point; but could not say he was a member of that society, but he generally worshipped with them.

The defendant's counsel, Mr. Jones, objected to his giving testimony, otherwise than upon oath. He cannot be permitted to testify upon affirmation, unless he is a member of some society who hold it unlawful to take an oath. Such has been the construction of the law in Maryland. He cited the Bill of Rights of Maryland, § 36, and the Maryland act, 1797, c. 118.

Mr. J. Dunlop, contra. The judiciary act of the United States, § 30, (1 Stat. 73,) authorizes witnesses to be sworn or affirmed. There is no law "of the United States, which directs in what cases they shall be sworn, and in what they may affirm.

THE COURT (nem. con.) said they felt bound by the decisions of the Maryland courts upon that statute, (1797, c. 118.) The witness cannot be permitted to testify on affirmation, unless he is a member of a society who profess to be conscientiously scrupulous of taking an oath. The parties agreed to continue the cause, to give time to apply to congress, to amend the law on that subject.

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