

Case No. 2,140.

BURCH et al. v. SPAULDING.

[2 Cranch, C. C. 422.]¹

Circuit Court, District of Columbia.

Oct. Term, 1823.

WITNESS—DISQUALIFICATION FOR INTEREST—EVIDENCE OF MONET PAID—CHECK PAYABLE TO BEARER.

1. It is no disqualification of the plaintiff's witness, that he is a surety in the plaintiff's administration bond.
2. Bank-checks, drawn by the plaintiff, payable to bearer, and paid by the bank, are not, of themselves, evidence of money paid, to the defendant.

[Followed in *Boyd v. Wilson*, Case No. 1,751.]

At law. This was an action [by Samuel Burch and others] to recover money overpaid by the plaintiffs' intestate, who was clerk of the house of representatives of the United States, to the defendant's intestate, who was one of the officers of the house. The plaintiffs offered to examine Benjamin Burch as a witness. The defendant [R. Spaulding] objected that he was interested, being one of the sureties of the plaintiffs in their administration-bond, and also a surety in Dougherty's official bond as clerk of the house, so that whatever the plaintiffs would recover in this action would increase the assets of his estate, which was largely indebted to the United States.

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

The plaintiff offered in evidence sundry checks drawn by Dougherty, as clerk of the house, in favor of Spaulding, or bearer, which were paid by the bank, and charged to Dougherty in his account with the bank.

But THE COURT (THRUSTON, Circuit Judge, contra) decided that the checks were not evidence to the jury of payment of money to Spaulding.

NOTE [from original report]. Motion for a new trial overruled at December term, 1824.

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

This volume of American Law was transcribed for use on the Internet through a contribution from [Google](#). 