

Case No. 5,056. FRANKLIN BANK V. HIPKINS ET AL.  
[2 Cranch, C. C. 315.]<sup>1</sup>

Circuit Court, District of Columbia.

May Term, 1822.

WITNESS—JOINT DEFENDANT IN DEFAULT.

In a joint action of debt upon a promissory note, if one of the defendants suffer judgment to go against him by default and a writ of inquiry be executed, he is not a competent witness, upon the issue joined by the other defendant.

Debt against Lewis Hipkins and Bartholomy Rochford upon their joint promissory note. Judgment was rendered against Hipkins by default, and a writ of inquiry executed.

On the trial of the issue against Rochford, his counsel, Mr. Taylor, offered to examine Hipkins as a witness for Rochford; and cited *Chapman v. Graves*, 2 Camp. 333, note; *Ward v. Haydon*, 2 Esp. 552.

THE COURT (nem. con.) rejected the witness; because the action being joint the judgment must be joint; and if, upon the trial of the issue against Rochford the verdict should be in his favor, there can be no judgment against Hipkins.

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