

Case No. 5,231.

GARDNER v. LINDO.

[1 Cranch, C. C. 78.]¹

Circuit Court, District of Columbia.

March Term, 1802.²

RECORDS OF COURT—CERTIFICATION—LIMITATIONS—PLEA OF NIL
DEBET—DEBT ON PROMISSORY NOTE—OBJECTIONS AFTER VERDICT.

1. The record of a court in Virginia must be certified by the presiding magistrate.
2. The act of limitations cannot be given in evidence upon the plea of nil debet.

[Cited in *McIver v. Moore*, Case No. 8,831.]

3. Debt will be against the maker of a promissory note.

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4. After verdict it is too late to object the want of profert of letters of administration—or that the action is in the debet and detinet.

Debt [by Gardner's administrator] against the maker of a promissory note—Pleas nil debet, and a discharge under the insolvent act of Virginia.

THE COURT refused to admit the record of the discharge to be given in evidence because it was not authenticated by a certificate of the presiding magistrate, according to the act of congress (1 Stat 122).

Mr. Mason, for defendant, contended that the act of limitations might be given in evidence on nil debet. Esp. N. P. 147, 262; *Roades v. Barnes*, 1 Burrows 9; *Draper v. Glassop*, 1 Ld. Raym. 153; *Darby v. Boucher*, 1 Salk. 278.

Mr. Woodward, for plaintiff. There is a difference between debt for rent, and debt on a bond or note. In the first case the debt arises only from the enjoyment of the thing demised. But upon a bond a debt is acknowledged. Esp. N. P. 233, 234.

THE COURT refused to admit the act of limitations to be given in evidence. See [*Lindo v. Gardner*] 1 Cranch [5 U. S.] 343; [note B., Append.] Id. 462, 465. After verdict for the plaintiff, it was moved, in arrest of judgment, 1st, That debt will not lie on a promissory note. 2d, That it does not appear that letters of administration were granted to the plaintiff. 3d, That the action is in the debet and detinet.

THE COURT, at a subsequent term, decided that debt would lie on a promissory note, and that the other two objections were too late after verdict.

Reversed by the supreme court of the United States (1 Cranch [5 U. S.] 343) because an action of debt will not lie in Maryland, upon a promissory note.

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

² [Reversed in 1 Cranch (5 U. S.) 343.]