

Case No. 7,977.

LADD v. WILSON.

[1 Cranch, C. O. 305.]¹

Circuit Court, District of Columbia.

March Term, 1806.

NEW TRIAL—MISTAKE OF JURY—AFFIDAVIT OF SAME.

The court will not, in general, suffer the affidavits of jurymen to be read, upon a motion for new trial, on the ground of mistake, miscalculation, or misconduct of the jury.

{Covenant on a charter-party for non-payment of demurrage. Case No. 7,976.}

Verdict for the plaintiff.

Motion by the defendant for a new trial, grounded on the affidavits of three or four of the jurymen, that a mistake was made by the foreman in calculating upon the principles agreed on by the jury; some of the others, particularly the foreman, believed there was no mistake.

Mr. Swann, for plaintiff, cited *Vaise v. Delaval*, 1 Term R. 11, and *Cochran v. Street*, 1 Wash. [Va.] 79.

THE COURT were of opinion, that it was dangerous to take the affidavits of jurors as to mistakes of calculations, &c.; but on reading the affidavits, there did not appear to have been an error in the foreman's calculation, and a new trial was refused. THE COURT, however, wished it not to be considered as giving a sanction to the practice of taking such affidavits of jurymen.

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