

Case No. 9,242. MASON V. LAWRASON ET AL.
[1 Cranch, C. C. 190.]¹

Circuit Court, District of Columbia.

Nov. Term, 1804.

PLEADING AT LAW—ACTION BY ADMINISTRATOR—OYER OF
LETTERS—PROFERT—COURT RECORDS—AUTHENTICATION.

1. Although the plaintiffs name themselves administrators, yet if they have not made profert of their letters of administration they are not bound to give oyer of them.
2. The act of congress respecting the authentication of the records of state courts does not apply to records of the courts of the United States.

[Cited in *Turnbull v. Payson*, 95 U. S. 424.]

Action on a contract made with the administrators and not with the intestate, but the plaintiffs named themselves administrators, and did not make a profert of their letters of administration. A rule had been laid upon the defendants [Lawrason & Smoot] to plead. They prayed oyer of the letters of administration, and cited *Theobald v. Long*, Carth. 453, and *Adams v. Savage*, 6 Mod. 134. The plaintiffs refused to give oyer.

Mr. Taylor, for plaintiffs.

Mr. Swann, for defendant.

THE COURT decided that they were not bound to give oyer, because there was no profert; because oyer is not demandable after the first term; and because the plaintiffs did not sue in the right of their intestate, but in their own right. So that the letters of administration constituted no part of their title.

A certificate of discharge of McPherson, as

a bankrupt, was offered in evidence, with a seal, said by counsel to be the seal of the United States district court in Richmond, but not stated by the clerk to be such, but hardly signed by him.

THE COURT (CRANCH, Circuit Judge, absent,) permitted verbal evidence to be given that this was the seal, and also that the clerk of that court, W. Marshall, had usually attested records in that manner, and did not insist on its being authenticated agreeably to the requisites of the act of congress, as it was not the act of a state court, but one of the United States. (Judge Fitzhugh's Notes.)

{See 3 Cranch (7 U. S.) 492.}

¹ {Reported by Hon. William Cranch, Chief Judge.}