

OLIVER v. DECATUR.

[4 Cranch, C. C. 461.]¹

Circuit Court, District of Columbia.

March Term, 1834.

USURY—INTEREST PAYABLE
ANNUALLY—ADDITION TO PRINCIPAL AT END
OF YEAR.

If the interest is, by the agreement, payable annually, it is not usury to add it to the principal, at the end of the year, and take a new note for the whole, bearing interest.

Assumpsit against the maker of a promissory note.

Mr. Marbury and R. S. Coxe, for defendant [Susan Decatur], prayed the court to instruct the jury, in effect, that if they should 657 be satisfied, by the evidence, that the plaintiff [Robert Oliver] loaned to the defendant, on the 3d of November, 1820, the sum of \$3,000, and on the 22d of December, 1820, the further sum of \$12,000, and on the 26th of June, 1822, the further sum of \$8,000, and that at the times of the loans, respectively, It was agreed between the said parties, that the interest thereon should be paid annually, according to the respective dates of the said loans; and that afterwards the plaintiff calculated the interest of the said loan of \$3,000 from the 3d of November, 1820, to the 31st of December, 1821, and on the said loan of \$12,000, from the 22d of December, 1820, to the 31st of December, 1821, and afterwards calculated interest upon the said interest from the 31st of December, 1821, to the 31st of December, 1822, and that the promissory note of the defendant upon which, this: suit is brought was given, for and included the interest upon the interest so calculated, and also the interest upon the said loan of \$8,000 so calculated as aforesaid, then the said note is

usurious, and the plaintiff cannot recover thereupon in this action.

Mr. Marbury cited Comyn, Usury, 82 §§ 7-14; Noy, 71; 3 Bos. & P. 154; 9 Ves. 223; 6 Johns. Ch. 313.

But THE COURT (THRUSTON, Circuit Judge; contra) refused to give the instruction.

Mr. Key cited Peter v. Brackenridge [unreported] in this court, May, 1830; Bank of Washington v. Eliot [Case No. 949]; Anstr. 495; and 1 Johns. Ch. 14.

See Comyn, Usury, 87, 147; 1 Bulst 17; 2 Salk. 449; 1 Ch. Cas. 258; Brown, v. Barkham, 1 P. Wms. 652; Thornhill v. Evans, 2 Atk. 330; Morgan v. Mather, 2 Ves. Jr. 15; Waring v. Cunliffe, 1 Ves. Jr. 99.

Verdict for plaintiff, \$7,558.

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

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