

PATRIOTIC BANK v. LITTLE.

[2 Cranch, C. C. 627.]¹

Circuit Court, District of Columbia. Dec. Term, 1825.

EVIDENCE—SECONDARY—LOST NOTE.

If a promissory note, with a blank indorsement, be put into the hands of an attorney for collection. And he die, and the note cannot be found after diligent search among his papers, secondary evidence may be given of the contents of the note.

Assumpsit against [Israel Little] the maker of a promissory note.

The plaintiff proved that the note, with a blank indorsement, was, after it was payable, put into the hands of Mr. Law, the plaintiff's attorney, for collection; that Mr. Law died, and the note, after diligent search among his papers, could not be found.

Mr. Morfit and Mr. Key, for defendant, objected to the admission of secondary evidence of the contents of the note, and cited *Poole v. Smith*, Holt, N. P. 144; *Miller v. Race*, 1 Burrows, 452; *Lawson v. Weston*, 4 Esp. 56; *Pierson v. Hutchinson*, 2 Camp. 211; *Ex parte Greenway*, 6 Ves. 812; *Hart v. King*, 12 Mod. 310; *Davis v. Dodd*, 4 Taunt. 602; *Wright v. Hencock*. 3 Munf. 521; and *Esp. Ev.*

Mr. Wallach, contra, cited 1 Holt, N. P. 144; 3 Camp. 324; *Williamson v. Clements*, 1 Taunt 523; *Dangerfield v. Wilby*, 4 Esp. 159; *Brown v. Messiter*, 3 Maule & S. 281; *Anderson v. Robson*, 2 Bay, 495; *Meyer v. Barker*, 6 Bin. 228, 234, 237, 238; *Renner v. Bank of Columbia*, 9 Wheat [22 U. S.].581.

THE COURT (CRANCH, Chief Judge, hesitating) permitted the secondary evidence to be given.

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

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