

SAMPSON v. JOHNSON.

{2 Cranch, C. C. 107.}³

Circuit Court, District of Columbia. Dec. Term, 1814.

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OF HANDWRITING.

1. The court will not, at the trial, compel the plaintiff to produce a charter-party, without previous notice, of which charter-party the defendant has a counterpart; nor permit the defendant to give it in evidence without proof by the subscribing witness.
2. The captain's protest may be given in evidence to corroborate his testimony.

Assumpsit for freight. The defendant proved that there was a written charter-party signed by Carnes and Johnson, and that the defendant had one part, and the plaintiff the other. The defendant required the plaintiff to produce his part.

But THE COURT refused to compel him.

The defendant then produced his part, which had a subscribing witness (Thomas L. Griffin,) and offered to prove by another witness, (not a subscribing witness,) the handwriting of the parties. That the subscribing witness lives in Richmond, Virginia, one hundred and twenty miles from Washington. No measures having been taken to obtain his testimony, THE COURT refused to suffer the charter-party to be given in evidence.

THE COURT permitted the captain's protest to be given in evidence, to corroborate his testimony.

³ [Reported by Hon. William Cranch, Chief Judge.]

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