

## SMITH v. PARKER.

[3 Cranch, C. C. 654.]<sup>1</sup>

Circuit Court, District of Columbia. Dec., 1829.

## SLAVERY—NOTE TO FORMER MASTER BY EMANCIPATED SLAVE.

A promissory note of an emancipated slave given to his master, after emancipation and in consideration of his emancipation, is valid.

Appeal from the judgment of a justice of the peace, for \$50, upon a note given by the appellant {negro William Smith} to the appellee {Daniel Parker} in consideration of his emancipation by the latter. The note was given immediately upon the execution and delivery of the deed of emancipation, and bears date the same day.

Mr. Worthington, for appellant, contended that the note was nudum pactum. The consideration was entirely past when the note was given. The slave, while a slave, was incompetent to contract, and after emancipation there was no consideration for the note. The case of *Contee v. Garner* [Case No. 3,139], in this court at December term, 1818, was debt upon a bond given by a slave to his master for the price of his emancipation. The suit was brought after he was emancipated. The defendant pleaded a special non est factum, namely, that when he signed, sealed, and delivered the instrument, he was a slave; and so it was not his deed. Issue being joined upon that plea, and the court being of opinion that a slave could not bind himself at law to pay money to his master, even for his freedom, the plaintiff became non pros.

Z. C. Lee, contra, cited 1 Bl. Comm. 127, 425; *Williams v. Brown*, 3 Bos. & P. 72, in which Heath, J., said, "In all countries where slavery is tolerated, agreements between the master and the slave

respecting the manumission of the latter, are enforced by the law. Suppose the slave, after having obtained his manumission, should refuse to perform his part of the contract, there is no country where such conduct would be endured. He is competent to enter into a contract for the purpose of his manumission, and therefore such contract may be put in force against him." And Chambre, J., said, "But I do not know that a slave is precluded from entering into a contract. He may do so. provided his contract do not affect the rights of his master. Though he cannot deprive his master of his services, yet with the consent of his master, he may engage to do service for another."

Mr. Worthington, in reply, cited *Com. v. Clements*, 6 Bin. 211, Pow. Cont 348, and *Wennall v. Adney*, 3 Bos. & P. 249, note.

THE COURT affirmed the judgment, with costs, CRANCH, Chief Judge, doubting.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]

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