

## STONE v. STONE.

{2 Cranch, C. C. 119.}<sup>1</sup>

Circuit Court, District of Columbia. June Term, 1816.

## PLEADING AT LAW—NON ASSUMPSIT—FORMER RECOVERY.

The defendant upon non assumpsit, may give in evidence a former recovery of judgment against him upon an attachment in a court in Virginia; and such former judgment is a good bar to the action here.

Assumpsit {by William Stone against Edward Stone} for money had and received.

The defendant, at the trial, upon non assumpsit, produced a record of a judgment by attachment against him, in Virginia, for the same cause of action, at the suit of the plaintiff, and prayed the court to instruct the jury that if they were satisfied by the evidence that it was for the same cause of action, the plaintiff could not recover in this suit, which instruction the court gave. (THRUSTON, Circuit Judge, absent.)

Mr. Wiley, for plaintiff.

Jones & Key, for defendant.

Motion by the plaintiff's counsel, for a new trial, on the ground of misdirection of the jury by the court. Refused.

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