jurisdiction of all causes of admiralty and maritime jurisdiction, without reference to the sum or value of the matter in controversy. But the appellate jurisdiction of the court and of the circuit courts depends upon the sum or value of the matter in dispute between the parties, having independent interests.

Appeal dismissed.

*12] *Bank of the Metropolis, Plaintiff in error, *v.* William Jones.

Competency of witnesses.—Authority of bank-officers.

In the case of the Bank of the United States *v.* Dunn, 6 Pet. 51, this court decided, that a subsequent indorser was not competent to prove facts which would tend to discharge the prior indorser from the responsibility of his indorsement; by the same rule, the maker of the note is equally incompetent to prove facts which tend to discharge the indorser.

The officers of a bank have no authority, as agents of the bank, to bind it, by assurances which would release the parties to a note from their obligations.

The principles of the case of the Bank of the United States *v.* Dunn, 6 Pet. 51, affirmed.

Error to the Circuit Court of the district of Columbia, and county of Washington.

This was an action on a promissory note, made by Betty H. Blake, executrix of J. H. Blake, for the sum of $5200, on the 27th of March 1822, in favor of the defendant, and by him indorsed to plaintiffs. The defendant pleaded *non assumpsit*, and the statute of limitation. On the trial of the cause before the circuit court, the following bill of exceptions was signed:

"Be it remembered, that on the trial of the above cause, the plaintiff, in order to sustain the issue, gave in evidence the following promissory note, on which the action was brought:

$5200. "Washington City, March 27th, 1822.

Sixty days after date, I promise to pay to Dr. William Jones, or order, five thousand two hundred dollars, for value received, negotiable at the Bank of the Metropolis. Betty H. Blake,
Executrix of J. H. Blake."

"16th May 1825.—I do hereby admit that a part of the above note is due, and that I am bound to pay whatever balance thereof is due, as far as I was originally bound as indorser. William Jones."

Indorsed—William Jones.

"And the defendant admitted the indorsement thereon, as well as the
*13] memorandum on the face thereof, to be in his *handwriting; and the plaintiff further proved, that said note was regularly protested for non-payment, and notice thereof duly given to the defendant, and the defendant waived, before the jury, the defence upon the statute of limitation.

"Whereupon, the defendant, to prove the issue on his part, under the plea of *non assumpsit*, produced Mrs. Betty H. Blake, the maker of said note, to whom a release was executed by defendant, exonerating her from any responsibility for the costs in this suit, to the form of which release no objection was made. The plaintiff objected to the competency of Mrs. Betty H. Blake to testify to any matters impeaching the original validity of the

said note, or of said indorsement, but the court overruled the exception, and permitted the said witness to be sworn and examined."

The evidence of Mrs. Blake was the following: "That, at the time of the death of her husband, Doctor James H. Blake, in the summer of 1819, there were several notes made by him running in the Bank of the Metropolis, and that the deceased was also indebted to other persons in various sums. That, when the notary came with one of said notes to procure payment from her, she, being the sole devisee and executrix of the last will and testament of said deceased, objected to a renewal. Witness sent to General Van Ness, who was at the time the president of the Bank of the Metropolis, and whom her deceased husband, on his death-bed, had recommended to her to consult. Witness informed him, that she did not wish to renew the notes, but he advised her to amalgamate the notes in bank. She informed him, that she could not ask any one to indorse for her; that she would prefer having the property sold, and the debts paid. She never heard General Van Ness say anything upon the subject of the indorsements by the defendant, until long after they were made. Her conversation with General Van Ness was in relation to the indorsement by her son James; he was consulted by her, as her confidential friend and adviser. He advised her against selling the property, as it was very valuable, and would increase daily in value; that witness had better procure some friend to indorse for her; that the security was so valuable, the indorser would incur no responsibility. He suggested her son James as an indorser. She said, he was not of age, and that she did *not wish him to commence the world incumbered with liabilities. He said, it was immaterial; that the security was so valuable, he [*14 could incur no risk. Under this impression, and in consequence of this conversation, she procured her son to indorse said note, and he continued on the note, until he left Washington in the autumn of 1820; and she then mentioned to Dr. Jones, the defendant, what General Van Ness had advised and informed her; who, in consequence, became the indorser, and so continued, upon the renewal of said notes, until the date of the note in question. She gave a deed of trust of certain property of James H. Blake, to secure the Metropolis Bank the amount of the note, which she has been advised she had no authority to give, because she was not authorized to give a preference to the Bank of the Metropolis over other creditors, and she has repeatedly mentioned this circumstance."

The counsel for the plaintiff moved the court to instruct the jury, that this evidence was incompetent upon the trial of the issue; but the court overruled the motion; and instructed the jury, that the evidence was competent and proper evidence for their consideration on the trial. To this overruling, exception was taken, and the plaintiffs prosecuted this writ of error.

The case was argued by *Coxe*, for the plaintiff in error; no counsel appeared for the defendant.

Coxe submitted to the court, that the principle of evidence involved in the case, was determined in the case of the *Bank of United States* v. *Dunn*, 6 Pet. 51. The whole question is, whether any testimony can be given by a party to a note to invalidate it.

McLean, Justice, delivered the opinion of the court.—This cause was brought into this court, by writ of error to the circuit court of Washington county, in the district of Columbia. In that court, an action was commenced by the Bank of the Metropolis against the defendant, on a promissory note made by Betty H. Blake, for the sum of $5200, dated the 27th of
*15] March 1822, payable in sixty *days and negotiable at the Bank of the Metropolis, which note was indorsed by the defendant to the bank. The defendant pleaded *non assumpsit*, and the statute of limitations; but on trial waived the latter plea.

The plaintiff proved the indorsement of the defendant, that the note was regularly protested for non-payment, and due notice given.

On the trial, Betty H. Blake, the maker of the note, was offered as a witness, after the defendant had executed to her a release from any responsibility on account of the costs of the suit, and the court permitted her to be sworn. Among other things, this witness gave in evidence to the jury, "that at the time of the death of her husband, Doctor James H. Blake, in the summer of 1819, there were several notes made by him, running in the Bank of the Metropolis, and that he was also indebted to other persons in various sums. That when the notary came with one of said notes, to procure payment from her, she being the sole devisee and executrix of the last will and testament of said deceased, she objected to a renewal. Witness sent to General Van Ness, who was at the time the president of the Bank of the Metropolis, and whom her deceased husband, on his death-bed, recommended her to consult. She informed him, that she did not wish to renew the notes, but he advised her to amalgamate them in bank; that she informed him, that she could not ask any one to indorse for her, and would prefer having the property sold and the debts paid. General Van Ness advised her against selling the property, as it was very valuable, and would increase daily in value, and that she had better procure some friend to indorse for her; that the indorser would incur no responsibility, as the property was so valuable. In pursuance of this advice, she procured the indorsement of her son James, who was under age, and afterwards, when he had left the city of Washington, she procured the defendant to indorse for her, on stating to him the advice and information given to her by General Van Ness." Whereupon, the counsel for the plaintiffs moved the court to overrule said evidence, and to instruct the jury, that it was incompetent upon the trial of the said issue; but the court refused to do so, and they
*16] instructed the jury, that the said evidence was *competent and proper for their consideration, to which opinion and instructions of the court, a bill of exceptions was taken.

The principle involved in this case is substantially the same that was decided by this court in the case of the *Bank of United States*, v. *Dunn*, 6 Pet. 51. In that case, the court said, "it is a well-settled principle, that no person who is a party to a negotiable instrument, shall be permitted, by his own testimony, to invalidate it;" and this doctrine is sustained by reason and authority. If an individual whose name appears upon the face of a negotiable instrument, either as drawer, indorser or acceptor, shall be a competent witness to prove facts or circumstances which lessen or destroy its value, before or at the time he gives it currency, the credit of commercial paper could not be sustained. The rule laid down in 1 T. R. 296, on this

subject is a sound one; and was sanctioned by this court in the case above cited.

On the part of the defendant in error, it is contended, that the witness objected to was not the only witness in the case; and that her testimony was competent so far as it went. That the court were not called on to decide, whether the facts stated by the witness were sufficient in law to discharge the defendant from his responsibility; but whether they conduced to prove an imposition practised on him by the bank, which ought to discharge him. If the testimony of the witness impaired the obligation of the note, it was inadmissible, under the rule stated; and that this was the tendency of the evidence, appears from the facts stated, and the argument just noticed. In the case cited, of the *Bank of United States* v. *Dunn*, this court decided that Carr, who was an indorser after Dunn, was not competent to prove facts which would tend to discharge Dunn from the responsibility of his indorsement. And is it not clear, by the same rule, that, in the case under consideration, the maker of the note is equally incompetent to prove facts which tend to discharge the indorser? In both cases, the discharge of the indorser was urged, on the ground, that certain statements had been made by the officers of the bank, which induced the indorser to sign the paper, under a belief that by doing so he incurred no responsibility. As the ground already stated is clear, it is unnecessary to add, *in this case, as was stated by the court in the case of Dunn, that the officers of the bank had no authority, as agents of the bank, to bind it by the assurances which they gave. [*17

The judgment of the circuit court is reversed, and the cause remanded for further proceedings.

This cause came on to be heard, on the transcript of the record from the circuit court of the United States for the district of Columbia, holden in and for the county of Washington, and was argued by counsel: On consideration whereof, it is ordered and adjudged by this court, that the judgment of the said circuit court in this cause be and the same is hereby reversed; and that this cause be and the same is hereby remanded to the said circuit court, for further proceedings to be had therein, according to law and justice, and in conformity to the opinion of this court.

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*James Erwin, Appellant, *v.* Hugh M. Blake, Appellee. [*18

Authority of attorney.

An attorney at law, in virtue of his general authority as such, is entitled to take out execution upon a judgment recovered by him for his client, and to procure a satisfaction thereof by a levy on lands, or otherwise, and to receive the money due on the execution; and thus to discharge the execution; and if the judgment-debtor has a right to redeem the property sold under the execution, within a particular period of time, by payment of the amount to the judgment-creditor, who has become the purchaser of the property, there is certainly strong reason to contend, that the attorney is implicitly authorized to receive the amount, and thus indirectly discharge the lien on the land; at least, if (as is asserted at the bar) this be the common course of practice in the state of Tennessee, it will furnish an unequivocal sanction for such an act.

Appeal from the Circuit Court of West Tennessee. In the circuit court, Hugh M. Blake, the appellee, filed a bill on the equity side of the court,