

NORTON *versus* LADD.

A person who is proved to have openly and repeatedly avowed that he had no belief in the existence of a God, cannot be admitted to testify in a court of justice.

In this cause, while on trial before the jury at this term, one John Hunter was offered as a witness on the part of the plaintiff. On the part of the defendant it was objected, that Hunter was not a competent witness, because he did not believe in the existence of a God. And it was proved that he had several times, within a short time before the trial, stated that he had no belief in the existence of a God.

*Williams and Cushman*, for the plaintiff.

*Bell and Barnard*, for the defendant.

*By the court.* He, who openly and deliberately avows that he has no belief in the existence of a God, furnishes clear and satisfactory evidence against himself, that he is incapable of being bound, by any religious tie, to speak the truth, and is unworthy of any credit in a court of justice. This witness is proved to have repeatedly avowed such a sentiment, and we have no hesitation in rejecting him as a person worthy of no credit. 2 Cowen, 431, *Butts v. Swartwood*; 18 Johns. 98, *Jackson v. Gridley*; Willes' Rep. 538, *Omichund v. Barker*.

THOMAS S. TILLOTSON, admin. *versus* JACOB GRAPES.

Where the only consideration of a promissory note was a promise by the payee to convey to the maker, on payment of the note, a tract of land if the payee should own it, and if not, to buy it of the owner as cheap as he could and let the maker have it for what it should cost—and the payee died insolvent, before the note became due, without any title to the land—it was held that the consideration of the note might be considered as having totally failed, and that the maker had a right to treat it as a nullity.

ASSUMPSIT upon a note for \$75, dated March 10, 1820, and payable to John M. Tillotson, the intestate, in three years, with interest annually.