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Memphis & St. Francis Plank Road Co. vs. Banere & Brown. [May

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MEMPHIS & ST. FRANCIS PLANK ROAD CO. VS. BANERE & BROWN

This court will not grant a new trial, on the evidence, where there is not a total want of evidence to sustain the finding.

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Term, 1860.] Memphis and St. Francis P. R. Co. vs. Banere & Brown.

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*Appeal from Phillips Circuit Court.*

Hon. George W. Beazley, Circuit Judge.

Alexander, for the appellant.

Fowler & Stillwell, for the appellee.

Mr. Justice Compton delivered the opinion of the Court.

This case originated before a justice of the peace, and was brought by appeal into the Circuit Court, where, on trial de novo, the appellees recovered judgment.

It is urged in argument here, that the evidence does not sustain the finding of the Circuit Judge, who tried the case sitting as a jury. Upon looking into the record, we do not perceive a total want of evidence to support the finding; and therefore, according to the settled practice of this court, the finding will not be disturbed.

Let the judgment be affirmed with costs.