THE STATE BANK *vs.* JENKINS ET AL.

A note payable to "the Branch of the Bank of the State of Arkansas, at Arkansas' may well be considered as a note payable to the State Bank by name. The additional words, do not vary the substance. But the matter was previously determined in *Bower vs. State Bank*, 5 *Ark.*, and *Wallace vs. State Bank*, *ante.*

Writ of Error to the Circuit Court of Washington County.

DEBT, determined by Sneed judge, in November 1846. The declaration counted upon a note payable "to the Branch of the Bank of the State of Arkansas at Fayetteville," alleged to have been made payable to the Bank of the State of Arkansas by that description. There was but one plea, denying that they promised to pay the plaintiff by the style of the branch of the bank &c. The case was submitted to the court sitting as a jury by consent, and the note as declared upon was the only evidence adduced—verdict and judgment for defendant—motion for new trial overruled, and bill of exceptions, writ of error.

LINCOLN, Att'y for the Bank. The finding of the circuit court in this case was clearly contrary to law and the evidence adduced; and the motion for a new trial ought to have been sustained. *Howell vs. Webb,* 2 *Ark. R.* 360.

Where the plaintiff proves the contract as declared on, and a verdict is given for the defendant a motion for new trial should be sustained. *Benedict vs. Lawson,* 5 *Ark. R.* 514.

OLDHAM, J. The question presented in this case was determined in *Bower vs. The State Bank,* 5 *Ark. Rep.* 234. It was there said "that all such promises and obligations as purport to be made by or to "the branch of the Bank of the State of Arkansas at Arkansas" may well be considered as promises of or to the corporation; or in other words, as having been made by or to the Bank of the State of Arkansas, and that such words added to the true names do not vary in substance or effect, but only in words or syllables, so that

the name in the obligation, by matter apparent therein, notwithstanding the additional words, imports a sufficient certain demonstration of the true name of the incorporation, and therefore it is binding upon the parties.'' The same doctrine was recognized in *Wallace vs. The State Bank; Miss.* decided at the last term of this court.

Under the doctrine as laid down in these cases, the note itself is evidence that it was made to the bank, and there is no necessity of showing that fact by other proof. The note read in evidence was sufficient to establish the issue upon the part of the plaintiff and the court sitting as a jury should have found for her. A new trial should have been granted, wherefore the judgment must be reversed.