DARDENNE *vs.* BENNETT ET AL.

The clause of *in cujus rei*, &c., is not necessary to constitute a sealed instrument, under our statute.

Craving oyer of the instrument sued on, does not entitle the party to oyer of the assignments on it, nor place *them* on the record.

THIS was an action of debt, determined in the Jefferson Circuit Court, in April, 1842, before the Hon. ISAAC BAKER, one of the Circuit Judges. Bennett, Morrill & Co. sued Dardenne on two bonds, each executed to a third person, and assigned to the plaintiffs. One of the bonds contained the words "witness my hand and seal." The other did not. The defendant craved oyer, and the original bonds, but not the assignments, were placed upon the record. He then demurred, because one instrument was not a bond, and the declaration did not allege that the words "witness my hand and seal" were in the other. Demurrer overruled, and final judgment. Dardenne brought error.

Jas. Yell, for plaintiffs in error, cited *Rev. St. pp.* 107 *and* 187.

Hempstead & Johnson, contra, referred to *Bertrand vs. Byrd*, *ante*, *p.* 195; *Gould on Pl.* 461; 1 *East.* 636; 1 *Saund.* 338, *n.* 3; *Co. Lit.* 72, *a.*; *Yelv.* 195; *Hob.* 233; *Com. Dig. Pleader*, 271; *McLain et al. vs. Onstott*, 3 *Ark.* 478.

By the Court, DICKINSON, J. The Court, in the case of *Bertrand vs. Byrd*, decided at the last term, held, that the clause "*in cujus rei*" is not essential to a deed or bond, and that our present Revised Code does not change the law in that particular. The demurrer was, therefore, properly overruled.

It is too late to question the assignments. The defendant below should have craved oyer of them, as well as of the original obligations, if he wished to bring the fact of the assignments to the notice of the

Court. He simply craved oyer of the originals. This was granted. The assignments are wholly distinct matters, and so it has been ruled in this Court, in the case of *McLain et al. vs. Onstott*, 3 *Ark.* 483. See, also, 1 *Saund.* 9, and 2 *Salk.* 498.

Judgment affirmed.