

CASES IN THE COURT OF APPEALS

1810.

Patterson
vs
Maryland Insu-
rance Company

Hains and *John Mannel*, who left the port of *Baltimore* in the said vessel, as seamen, and returned in her as such, and who were the only seamen who sailed in the said schooner on the said voyage, and returned in her as aforesaid. He also gave in evidence, that *Ogden* and *Buckner* have been dead about two years, and that *Hains* and *Mannel* went from the port of *Baltimore* in the month of November in the year 1796, to the eastern shore of this state, and cannot now be found or heard of in the port of *Baltimore*. But offered no evidence to prove that the said mariners and supercargo were dead, or that any summons issued for them to testify in this cause, or that any steps have been taken by the plaintiff, previous to the empanneling of the jury in this cause, to ascertain their present residence, or to procure the benefit of their testimony. He also gave in evidence, that on the 23d of May 1796, and until on and after the 26th day of the same month, *Thomas Donaldson* was a notary public, residing in the port of *Baltimore*, and duly authorised and commissioned. He also offered in evidence, that it is, and for more than twenty years last past, has been the usage and custom of merchants, insurers, and others dealing in and making insurance in the port of *Baltimore*, in cases where they have adjusted their losses without suit, to receive the protests of the captures of vessels insured, as evidence of the matters therein stated, when losses are claimed, and for insurers, when called on for payment of such losses, to require the said protests to be produced, or their nonproduction to be accounted for by the claimants, before such losses are adjusted or paid, and not to call in question the truth of the facts stated in such protests, unless some strong ground of suspicion should appear. He also gave in evidence, that it is usual in *Baltimore* for the captains of vessels arriving from other ports, to note their protests with a notary within twenty-four hours after their arrival respectively, which noting is done by informing the notary of the principal matters intended to be contained in such protests respectively, and intended to be thereby protested against. But that it is not deemed essential that such noting should be done within twenty-four hours as aforesaid, or within any other particular time, and that protests are never objected to by insurers, or others, for not being noted within twenty-four hours, or any other particular time, provided the said pro-