

Case No. 1,568.

BLUE v. RUSSELL.

{3 Cranch, C. C. 102.}¹

Circuit Court, District of Columbia.

May Term, 1827.

NEGOTIABLE INSTRUMENTS—PLEADING AND PROOF—EVIDENCE—STRIKING OUT PLAINTIFF'S INDORSEMENT ON TRIAL.

1. A note payable in twelve months "with interest" will not support a count upon a note payable in twelve months without interest.

[See *Coyle v. Gozzler*, Case No. 3,312; *U. S. v. Lee*, Id. 15,586.]

2. The plaintiff was permitted to strike out his own indorsement of the note, after it had been offered in evidence to the jury and objected to, on account of such indorsement.

At law. Assumpsit upon the defendant's promissory note, payable in twelve months with interest. The declaration omitted the words "with interest."

THE COURT decided the variance to be fatal; there being only one count, namely, on the note.

A juror being withdrawn, the plaintiff had leave to amend his declaration, and THE COURT refused to continue the cause.

The note had upon its back the blank indorsement of the plaintiff (who was the payee) and of another person.

Mr. Barrell, for the plaintiff, was permitted, after offering the note in evidence, and after objection to its going to the jury on account of the indorsement of the plaintiff, to strike out the indorsements.

CRANCH, Chief Judge, doubting.

Verdict for plaintiff, \$1700.

¹ [Reported by Hon. William Cranch, Chief Judge.]