

6FED.CAS.—32

Case No. 3,206.

COPE v. HUNTT.

{4 Cranch, C. C. 293.}¹

Circuit Court, District of Columbia.

March Term, 1833.

EXTENSION TO MAKER OF PROMISSORY NOTE—DISCHARGE OF INDORSER.

The indorser of a promissory note is discharged by the plaintiff's giving the maker time to pay by instalments.

Assumpsit, against the indorser of Houston's note for \$500, due July 7, 1829.

R. S. Coxe, for the defendant, offered evidence of a subsequent agreement between the plaintiff and the maker of the note, that the latter should assign ten dollars a month of his pay as a clerk in the treasury department in payment of the note; and that the plaintiff should wait for payment in that manner. That Houston continued to make such payments according to the agreement until April, 1831; and that this agreement was made without the knowledge of Hunt, the indorser. *Bank of U. S. v. Hatch*, 6 Pet [31 U. S.] 250; 5 Vin. Abr. 527, pl. 17; *Bridg. Dig.*

J. Dunlop, contra.

There was no new consideration. It was a mere promise to wait. *McLemore v. Powell*, 12 Wheat [25 U. S.] 554, 556.

Whereupon, THE COURT (MORSELL, Circuit Judge, contra) instructed the jury, at the prayer of the defendant's counsel, that such an agreement, if proved, discharged the indorser, (the defendant,) from his liability.

Verdict for the plaintiff; but, THE COURT being of Opinion that the verdict was against the evidence, or the law, granted a new trial. (MORSELL, Circuit Judge, contra.)

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