

6FED.CAS.—46

Case No. 3,327.

CRAIG v. BROWN.

{Pet. C. C. 171.}¹

Circuit Court, D. Pennsylvania.

Oct. Term, 1815.

ACTION ON BILL OF EXCHANGE—STRIKING OUT INDORSEMENT—NOTICE.

The bill was drawn by the defendant at New Orleans, on Philadelphia, in favour of the plaintiff, and was by him indorsed, in full, to a third person, and had been regularly protested for non-acceptance and non-payment; but no notice of the dishonour of the bill was proved to have been given to the drawer. The indorsement being in full, cannot be struck out at the time of trial. The want of notice prevents a recovery by the plaintiff.

Action on a bill of exchange, drawn by the defendant [Elijah Brown] at New Orleans, on James Brown and Co. of Philadelphia, dated in July, 1807.

The bill was drawn in favour of Lewis Craig, Esq., and indorsed in full, by Lewis Craig, Junior, but they were proved to be the same person. The bill was regularly protested for non-acceptance, and non-payment. No proof of notice being given, the defendant moved for a nonsuit, on that ground; and because the bill has an indorsement on it, and no proof that the plaintiff had paid the amount to the indorser, or had in any other way become entitled to the bill. As to the second objection, WASHINGTON, Circuit Justice, asked if the plaintiff might not now strike out the indorsement, possession of the bill being prima facie evidence, that the plaintiff had paid the indorser? J. R. Ingersoll and Chauncey, for the defendant, answered; that if the bill had been indorsed in blank, this might have been done, but not where the indorsement is in full, and cited [Gorgerat v. McCarty] 2 Dall. [2 U. S.] 144; [Steinmetz v. Currey] 1 Dall. [1 U. S.] 234.

{For a prior nonsuit, see Case No. 3,326.}

Shoemaker, for plaintiff.

J. R. Ingersoll and Chauncey, for defendant.

THE COURT directed the plaintiff to be called for both the reasons assigned.

Nonsuit.

{NOTE. On the next day, plaintiff instituted a new action, and judgment was rendered for defendant on demurrer to the replication. Case No. 3,329. Plaintiff amended, and was nonsuited on the trial. Case No. 3,330.

{See, also, the discharge of a rule to show cause why defendant should not be discharged on common bail. Case No. 3,328.}

¹ [Reported by Richard Peters, Jr., Esq.]