

Case No. 6,270.

HAYS V. BELL ET AL.

[1 Cranch, C. C. 440.]<sup>1</sup>

Circuit Court, District of Columbia.

July Term, 1807.

ACTION OF DEBT—VERDICT.

In Alexandria, in an action of debt against the maker of a promissory note for two hundred and fourteen dollars, reduced by payments indorsed on the note before suit brought, to eight dollars and ninety-four cents, a verdict for the debt in the declaration mentioned to be released on the payment of eight dollars and ninety-four cents, will sustain a judgment for the plaintiff in the circuit court.

[Cited in *Hellrigle v. Dulany*, Case No. 6,343.]

Debt on a promissory note for 214 dollars. Payments indorsed on the note, before the suit was brought, reduced the sum due on the note to eight dollars and ninety-four cents. The verdict was for the debt in the declaration, to be discharged on the payment of eight dollars and ninety-four cents.

E. J. Lee, for defendants [Bell and Wray], contended that a nonsuit ought to be entered, under Act Va. Dec. 3, 1792, p. 90, § 38.

Mr. Swann, for plaintiff, contended that this cause could not have been heard on a petition in Virginia. If an account in England be reduced by offsets to less than forty shillings, it is no cause of nonsuit. *Pitts v. Carpenter*, 1 Wils. 19. The declaration must state the whole amount of the note. The debt in law continues until the whole sum is paid. It is one entire debt. An action of debt must be brought on a promissory note under the act of assembly. If this action had been

brought before a justice of the peace, upon the face of the declaration, the defendant might defeat the plaintiff. The justice of the peace would have to decide upon the whole validity of the plaintiff's claim. The act of congress of February 27, 1801 (2 Stat. 103), only intended to give them the power of deciding upon contracts to the amount of 20 dollars. This court decided the point in the case of *McKnight v. Ramsay*, [Case No. 8,868], at Alexandria, October, 1801, and refused a nonsuit *Mr. Swann* cited 1 Wils. 19.

THE COURT (DUCKETT, Circuit Judge, contra) ordered judgment to be entered for the plaintiff on the verdict See the cases of *McKnight v. Ramsay* [supra] and *Currey v. Fletcher* [Case No. 3,490]; St 3 Jac. c. 13; St 23 Geo. II. c. 33, § 19; Doug. 245, 448; 1 Wils. 19; Laws Md. 1785, c. 46, § 7; Id. 1791, c. 68, §§ 9, 10; Id. 1796, c. 43, § 5.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]