

Case No. 8,835.

MACKALL v. GOSZLER.

[2 Cranch. C. C. 240.]¹

Circuit Court, District of Columbia.

April Term, 1821.

CHECK—ACCOMMODATION—ENTITLED TO NOTICE.

If a man lends to his friend his check upon a bank in which he has no funds, upon the assurance of his friend that he will provide funds there to meet it and the plaintiff, at the time of receiving it knew that the drawer of the check, at the time of drawing it had a reasonable expectation that funds would be so placed in the bank, the drawer is entitled to regular notice of the non-payment by the bank.

[See Baker v. Gallagher, Case No. 768.]

Assumpsit, against the drawer of a check on the Bank of Columbia. The defendant lent his check for \$300, on the Bank of Columbia, to Fitzhugh, payable to him or bearer, but had no funds in that bank. Fitzhugh delivered it to the plaintiff, and promised to take it up in ten days; and the plaintiff engaged not to present it to the bank, nor to call on the defendant until the expiration of that period.

THE COURT, (THRUSTON, Circuit Judge, absent,) at the prayer of the defendant's counsel, instructed the jury, that, if they should be satisfied, by the evidence, that the defendant, when he drew the said check, had a reasonable expectation that funds would be placed in the said bank, by Fitzhugh, to meet the check, and that such expectation was known to the plaintiff when the said check was presented to the bank for payment, then the defendant was entitled to regular notice of the non-payment thereof by the bank.

Verdict for the defendant. The plaintiff moved for a new trial upon the ground of misdirection of the jury, by the court, upon the matter of law—and of newly discovered evidence—but the motion was overruled.

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