

Case No. 10,513.

ONEALE v. BEALL.

{2 Cranch, C. C. 569.}¹

Circuit Court, District of Columbia. May Term, 1825.

ACTION ON NOTE—STRIKING OUT NAMES OF INDORSERS.

In an action by the payee of a promissory note, the plaintiff has a right at the trial, before offering the note in evidence, to strike out the names of the indorsers.

Assumpsit, by the payee against the maker of a promissory note. The note, when produced, had the name of the plaintiff and T. Cookendaffer indorsed in blank. The plaintiff, after the jury was sworn, struck out those names, before he offered the note in evidence.

Mr. Frost, for defendant, objected that the indorsements were evidence that the note had been negotiated and passed away, and that the plaintiff must show that he had taken it up and had paid it, and that his right of action was redintegrated; and cited *Welsh v. Lindo*, 7 Cranch [11 U. S.] 159.

Mr. Ashton, contra. 2 Phil. Ev. 11, note c, and the cases there cited, viz. *Dugan v. U. S.*, 3 Wheat, [16 U. S.] 172; *Clark v. Pigot*, Salk. 126, pl 4.

Verdict for the plaintiff, subject to the opinion of the court as to this objection.

THE COURT (nem. con.), after consideration, was of opinion that the plaintiff had a right to strike out the names of the indorsers, and overruled the objection.

Judgment for the plaintiff.

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

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