

## ROBBINS ET AL. V. UPTON.

{5 Cranch, C. C. 498.}<sup>1</sup>

Circuit Court, District of Columbia. Nov. Term, 1838.

BAIL—SET-OFF—AFFIDAVIT            OF            AMOUNT  
DUE—INDORSER.

1. In a question of bail, the court will not take into consideration a set-off claimed by the defendant. In a suit upon protested bills of exchange, the court will not require an affidavit of the amount due upon the bills, in order to hold the defendant to special bail.
2. It seems to be no objection to bail, that he is indorser of the paper upon which the suit is brought.

Assumpsit [by Robbins & McKnight against Upton] upon protested bills of exchange drawn by the defendant.

Mr. Bradley, for defendant, offered to show a set-off, by way of mitigating the amount for which the bail should justify.

THE COURT (nem. con.) refused to consider the set-off.

Mr. Bradley then contended, that the plaintiff must make affidavit of the amount due upon the protested bills. <sup>866</sup> THE COURT and bar said that it was never required by the practice of this court

Mr. Bradley contended that it was no objection to bail, that he was indorser upon the bills, and cited Petersd. Bail, 281.

To this THE COURT seemed to assent.

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