

## ROUNSAVEL v. SCHOLFIELD.

{2 Cranch, C. C. 139.}<sup>1</sup>

Circuit Court, District of Columbia. April Term, 1817.

## CHECK—KNOWLEDGE OF DISHONOR—EQUITIES.

1. The person who knowingly takes a dishonored check payable to bearer, takes it subject to the drawer's equity against the person from whom he received it.
2. If the holder, at the time of his taking the check, knew that the person who gave it to him, had no right to give it, he cannot recover against the drawer.

Assumpsit for money had and received. The plaintiff offered in evidence, a check drawn by the defendant upon the Union Bank, payable to B. Baden, or bearer, which, having been the property of the Merchants' Bank, was delivered to the plaintiff by the cashier of that bank, for value received.

Mr. Swann and Mr. Mason, for defendant, offered evidence to prove, that the cashier of the Merchants' Bank had no authority to deliver the check to the plaintiff, and that while it was the property of that bank, the defendant had offered to take it up and pay it in their own paper, which the cashier refused. That the plaintiff, when he received it, knew that it had been dishonored by the Union Bank, on which it was drawn.

Whereupon THE COURT (THRUSTON, Circuit Judge, absent), upon the motion of the defendant's counsel, instructed the jury that if they should be satisfied by the evidence that the plaintiff, when he received the check, knew that the cashier of the Merchants' Bank had no right to transfer it, he could not recover in this suit and that if the plaintiff, when he took the check, knew that it had been dishonored by the bank on which it was drawn, he took it liable

to all the equitable and legal defence which the defendant then had against the Merchants' Bank.

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

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