

STADLER AND OTHERS V. CARROLL,  
GARNISHEE.<sup>1</sup>

*Circuit Court, S. D. Texas.*

February, 1884.

ASSIGNMENT.

An assignment which authorizes the assignee to sell the assigned goods on credit, which undertakes to distribute the remnant after paying consenting creditors, in opposition to the terms and provisions of the law, and by which the assignees, by such distribution, exclude from the benefits of the assignment their individual creditors, and reserve an interest for themselves, is unauthorized by law. *Lawrences. Norton*, 15 Fed. Rep. 853, and *Muller v. Norton, ante*, 719, followed.

On Demurrer to Answer of Garnishee.

*Crawford & Crawford*, for plaintiffs.

*Wright & Wright* and *J. A. Carroll*, for garnishee.

PARDEE, J. The assignment in this case, which is under section 3 of the act of 1879, is attacked for fraud apparent on its face, to-wit: (1) It prefers creditors for rent, taxes, and assessments. (2) It authorizes the assignee to sell the assigned goods on credit. (3) It undertakes to distribute the remnant after paying consenting creditors, in opposition to the terms and provisions of the law. (4) The assignors, by such distribution, exclude from, the benefits of the assignment their individual creditors, and reserve an interest for themselves.

The case of *Lawrence v. Norton*, 15 FED. REP. 853, and *Muller v. Norton, ante*, 719, gives sufficient reasons for sustaining the second, third, and fourth grounds. On the first ground it is not necessary to pass.

The demurrer is sustained.

McCORMICK, J., concurs.

<sup>1</sup> Reported by Joseph P. Hornor, Esq., of the New Orleans bar.

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