

must, it is submitted, be regarded as a partial statement only. The drawer had a right to the bill as its "owner" (Sec. 31), but not as its "holder."

The Bills of Exchange Act defines a "holder" as "the payee or endorsee of a bill who is in possession of it." The Act further says: "A bill payable to order is negotiated by the endorsement of the holder completed by delivery." The endorsement was wanting in this case, and the judge erred, apparently, in treating the delivery alone as sufficient to create the drawer (and owner) a lawful "holder."

The judgment also says: "The definition of a holder in the Bills of Exchange Act seems to refer to a third party, and not to apply to the original drawer, who has (when he has) simply made his draft payable to a bank for the purpose of collection." If, then, in the judge's opinion, "holder" does not include a "drawer," how could he sustain the drawer's right of action in this case, for the plaintiff sued as "holder"? The words he uses seem to be a clear decision by the judge that the drawer was at no time the "holder" of the draft in question. Clearly a drawer, as such, is not a "holder" at any time, but when payee or endorsee he is a holder in precisely the same manner as other persons would be.

The judgment further says: "He, the drawer, certainly could not be regarded as a 'holder' until a breach of the contract." Just preceding these words the learned judge had said that the word "holder" did not seem to apply to the original drawer. Just here he declares that the drawer becomes a "holder" by the failure of the acceptor to pay the draft.

The breach of the contract to pay the bill does not make the drawer a "holder," or give him a right of action on the bill as a matter of course, for he could only become the "holder" in the manner prescribed in the Bills of Exchange Act, by endorsement and delivery, but a right of action in respect of the bill would accrue to the drawer upon payment of the bill, by virtue of the provision of the Bills of Exchange Act: "Where a bill payable to the order of a third party is paid by the drawer, the