

time and trouble, was a very rough and ready one, and one that, in view of the conflict of judicial opinion on the subject, is not likely to be adopted in the future.

Formerly when a bill was indorsed in blank, its negotiability could not afterwards be restrained by a special indorsement: *Smith v. Clarke*, 1 Peake 295, 1 Esp. 179; *Walker v. Macdonald*, 2 Ex. 527. And in the United States it has often been held that where the draft or bill was indorsed by the payee in blank, and was by the next holder indorsed specially, the first indorsement being in blank, the bill was afterwards transferable by mere delivery, and that a holder by delivery may strike out the special indorsement and in a suit against the acceptor declare and recover as the indorsee of the payee: see *Mitchell v. Fuller*, 15 Penn. R. 268; *Johnson v. Mitchell*, 50 Tex. 212, stating the rule, "If a bill be once indorsed in blank, though afterwards indorsed in full, it will still, as against the drawee, the payee, the acceptor, the blank indorser, and all indorsers before him, be payable to bearer, though as against the special indorser himself title must be made through his indorsee;" *Bank of Utica v. Smith*, 18 Johns. (N.Y.) 229 (where, however, the holder filled up the blank merely for the purpose of collection); *Haversham v. Lehman*, 63 Ga. 80.

It is said, however, that since the Bills of Exchange Act this is no longer law: *Byles on Bills*, 16th ed., p. 178, note (c); *Maclaren*, 3rd ed., p. 67.

I rest my judgment, therefore, on the ground taken by the trial Judge.

Appeal dismissed with costs.

BRITTON, J., gave written reasons for the same conclusion, basing it on the ground that the Standard Bank had the right to cancel or alter their special indorsement, and referring to *Grimes v. Piersol*, 25 Ind. 246; *Vincent v. Horlock*, 1 Camp. 442; *Walters v. Neary*, 20 Times L. R. 555; *Porter v. Cushman*, 19 Ill. 572; *Clerk v. Pigot*, 12 Mod. R. 192.

STREET, J., dissented, setting out the facts as above, and holding upon them that plaintiffs were not holders in due course, but that the legal title was still in the Standard Bank, and on account of the undertaking of plaintiffs, the Standard Bank could not be added as plaintiffs by amendment.