

## DIVISION COURT—ELGIN.

Ermatinger, J.J., Elgin Co.]

[Jan. 18.]

TRADERS BANK v. CRAIG.

*Bill and notes—Collateral notes—Lien.*

The plaintiffs on the strength of his note dated 30th March last for \$675 and a number of collateral notes amounting to \$900, advanced to Robert Craig the sum of \$650.65. Among the collaterals was the note sued upon, made by Wilfred Craig in favour of the defendant, Louis Craig, and by him endorsed and also assigned to the plaintiffs by a special endorsement consenting to extension of time, waiving protest, etc. All the other collaterals have been paid except \$5 unpaid on one. The advance of \$650.65 has thus been more than repaid. The plaintiffs however claim a lien on this note sued on for other moneys due them to more than the amount of this note in respect of over-drafts and advances made by them both prior and subsequent to the advance of \$650.65. I think upon the evidence the plaintiffs have undoubtedly a lien for the amount still due them upon Robert Craig's general account, and that, as I understand it, is more than the amount of this note. See *In re European Bank*, L.R. 8 Chy. 41.

It was contended that this lien was subject to any defence that defendant Louis Craig might have as against Robert Craig, and that as a matter of fact Robert Craig was, and his estate is, indebted to the defendant Louis Craig. By s. 54, sub-s. 2, of the Bills of Exchange Act (R.S.C., c. 119), the lienholder is "a holder for value to extent of the sum for which he has a lien." The plaintiffs are also holders in due course as defined by s. 56, having no knowledge of the state of accounts between defendant Louis and Robert Craig and having acquired the note while current. The note is a negotiable instrument within the ordinary law merchant and plaintiffs being holders in due course and for value, no defence as between defendant and Robert Craig merely can effect their claim, on which they are entitled to judgment for the full amount claimed (with costs) against Louis Craig, and for \$73.65 against the garnishees.

I have not considered the possible rights of said defendant as between him and Brown, the endorser of prior note of Robert Craig, in the event of the amount so covered herein and in the suit against Brown being more than sufficient to satisfy all liens