on a settlement of account between them, for which he states the Appellant gave his draft. This, it must be remarked, is evidence adduced by the Respondent from his own witness on his examination in chief.

The same witness further establishes, that the draft above mentioned, was dated on the 21st of June, 1842, drawn on Messrs. Pemberton & Brothers, at sight, and payable to Dennison, or his order.

Upon this evidence, the case was heard, and judgment rendered in favour of the Respondent, for £184 4s. 4d., the Court below considering that the Respondent had established the material allegations of his declaration.

It is obvious in this case, that the material facts to be proved by the Respondent, were—1st. The Debt by the Appellant to Dennison: 2nd. The Transfer of the debt to the Respondent and Cowan, according to the 31st sec. of 7 Vic., cap. 10: and 3rd. The investment of the same debt in the Respondent, according to the 32nd sect. of the same Statute.

Supposing the sum of £184 4s. 4d., proved as a debt from the Appellant to Dennison. The Appellant contends, inasmuch as the Respondent has established by his own evidence on his own examination, that before Dennison became a Bankrupt, he had received from the Appellant a negotiable instrument or bill, in payment of that sum, the Respondent could not in law recover upon the original consideration, without proving that the bill or draft was dishonored, or that it was in the hands of the Respondent.

The documents described in the 31st and 32nd sections of 7 Vic. cap. 10, are so obviously the only possible evidence that could establish the remaining two links in the Respondent's chain of title, according to the express words of the Statute: And their absence from the proof of record, so fatal an omission of the most material evidence, that it is difficult to imagine what reasons the Respondent can urge in favor of the judgment in his favor under these circumstances.

PETER AYLEN,
Attorney for Appellant.

Aylmer, 21st September, 1857.