

1824

Highway
against
Malcolm.

Evidence of money had and received by the acceptor to the use of the drawer, and in the case of Israel against Douglass it is laid down that an acceptance is evidence of an account stated.

That these determinations are decisive in the present case, as it is well known that the maker of a promissory note and the acceptor of a bill of exchange, are upon the same footing.

That in many of the cases it has been decided that the note was evidence without being declared upon, and the reasoning is stronger in favour of a plaintiff where his note, as in the present case, has been declared upon.

Per Curiam—Application refused.

McLEAN against CUMMING.

November 12.

Motion to stay proceedings upon a Judgment entered upon a cognovit—Actionem.

The rule of this court requiring the name of an attorney to be indorsed upon a cognovit does not apply where an attorney is plaintiff. An affidavit not considered as

Boulton, Solicitor General, objected that

Bayley on Bills.

1 H. B. 230—13 East 100.

insolvent because the place of making it was omitted in the Jurament.