

Mr. Emanuel Bickers, of ———, the sum of £130, being the amount due or to become due from you to me, as appears by an I.O.U. signed by you, and dated Feb. 4, 1885, and his receipt for the same shall be a good discharge." *The I.O.U. was made an exhibit*; and contained the words 'for money lent.' "By Order XX., Rule 1," contended counsel, arguing against the sufficiency of the foregoing indorsement before the Divisional Court, "the special indorsement is to be deemed to be the statement of claim. Therefore, by Order XIX., Rule 4, it must contain a statement of the material facts relied on. By Order XX., Rule 8, 'In every case in which the cause of action is a stated or settled account, the same shall be alleged with particulars.' This is not done here. The expression 'due or to become due' is insufficient; it should be stated how much is due, and how much is accruing due." The above argument did not convince Coleridge, C.J., and Wills, J.; who held that "the objection which has been taken to this special indorsement must fail." "In the present case," remarks Wills, J., "the contents of the I.O.U. may be reasonably supposed to be within the knowledge of the defendant, just as in that case, (*Aston v. Hurwitz*, supra), the contents of the account rendered might be supposed to be within the knowledge of the person to whom it had been rendered; and *the I.O.U. contains the elements which are wanting* in the earlier part of the indorsement."

Thus, in the foregoing decision, the Divisional Court, apparently, considered it proper to look beyond the special indorsement form; and having, by supplementing the facts there stated, fully ascertained the nature of the claim, declared the special indorsement to be sufficient.

Such a course is opposed to the one laid down under s. 25 of the English C.L.P. Act; and, strange to say, in the very case in which this contrary course was taken, it was held that the same principle was to be applied in judging of the sufficiency of a special indorsement as was applied under the C.L.P. Act. With respect to s. 25 of the last-named Act, as above seen, (s), a court of four judges held that "it should appear *on the face of the indorsement itself* that the claim is for a liquidated demand." Further, in the leading case of *Walker v. Hicks*, supra, Mellor, J.

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(s) *Rogers v. Hunt*, supra.