

drawer may enforce payment thereof against the acceptor." (Sec. 59 (2a).)

The judgment proceeds: "After that (failure to pay) I think the draft properly belongs to the drawer, when returned by the bank which has failed to make the collection." The question was not—Did the draft belong to the plaintiff? (that is, Was he the rightful owner?) but, Was he the "holder" of the draft within the meaning of the Act, and as such entitled to sue the acceptor? Not only did the draft belong to the plaintiff, but he was entitled to have the bank's endorsement (Sec. 31 (4)), and upon securing this he would be a "holder," though not a "holder in due course." The plaintiff in this case might have sued on his original cause of action, and used the bill as evidence of the debt, but clearly his suit as holder could not be maintained on the bill of exchange without the endorsement of the bank.

The acceptor of a bill of exchange engages that he will pay "according to the tenor of his acceptance." In this case the drawer was to pay the Union Bank, or its order. The acceptor did not agree to pay any other person, and consequently had not agreed to pay the drawer. Payment to the drawer would not have discharged this bill. Until "payment in due course" a bill is not discharged. (Sec. 59.) "Payment in due course" means payment to the holder. (Sec. 59.) Holder means "a payee or endorsee in possession of the bill." (Sec. 2.)

A drawer obtaining by endorsement an accepted bill payable to a third party becomes the "holder" thereof, but a drawer paying after dishonour a bill payable to a third party, but not procuring the third party's endorsement thereon, does not become the holder, though he has a right of action *as drawer*. (Sec. 59 (2a).)

If the bill were accepted as payable to the drawer or order, and were endorsed and negotiated by the drawer, and were subsequently paid by the drawer himself, the drawer might re-endorse and re-issue the bill. (Sec. 59 (2b).) In the latter case he exercises the right of a payee, not of a "holder," and where he is not originally the payee, he cannot, upon paying the bill,