

Answered, Both the drawer and the drawee having been resident in England, the bill in question is *inland*, and not *foreign*. Erskine, b. 2. tit. 3. § 25.; Blackstone's Commentaries, vol. 2. p. 467.

By the law of England, the *lex loci contractus*, the protesting of *inland* bills at all is not necessary for recourse, except as to interest and charges; and even then it is only required *after* the expiration of the three days of grace; statute 9th and 10th William III. cap. 17.; Bankton, vol. 1. p. 369. § 2.; Raymond Rep. p. 993. Brough *versus* Parkins; Blackstone, vol. 2. p. 469. And a similar decision was pronounced by this Court, with respect to a bill payable in London, which had not been protested till the fourth day after it became due. Bruce, 1st February 1715, Johnston *contra* Murray, No 132. p. 1556.

THE LORD ORDINARY sustained the plea of undue negotiation as a ground of suspension; and

THE COURT adhered to the interlocutor of the Lord Ordinary.

Lord Ordinary, Stonefield.
Clerk, Robertson.

For Suspenders, Neil Fergusson. Alt. A. Campbell.

Stewart.

Fol. Dic. v. 3. p. 83. Fac. Col. No 282. p. 434.

1787. June 14.

JAMES MAGADAM *against* ALEXANDER MACWILLIAM.

CERTAIN bills drawn by Macwilliam, and accepted, were indorsed to Macadam, after some intermediate indorsations, and after being protested. The acceptor having become bankrupt, the indorsee sued the drawer for payment; who, in defence,

Pleaded: 1st, The bills, after protest, could not be transferred by indorsation; and, 2dly, They have not been negotiated according to those rules which are established for the preserving of recourse.

Answered: 1st, During the whole of the statutory period, bills pass from hand to hand as bags of money; and it seems absurd to conceive, that their being protested should deprive them of this privilege. 2dly, Regular negotiation is not to be required of bills that, for the sole purpose of raising money to accommodate the drawer, have been accepted without value; such, in short, as are well known by the appellation of *Wind-bills*.

THE LORD ORDINARY reported the cause; and

THE LORDS repelled the above defences.

Reporter, Lord Stonefield.
Stewart.

Adv. Ross. Alt. Abercromby, Maconochie. Clerk, Home.

Fol. Dic. v. 3. p. 88. Fac. Col. No 334. p. 514.

No 170.

No 171.

The drawer not entitled to require regular negotiation of such bills as are granted merely for his accommodation.

Bills pass by indorsation as well after as before protest.