

ALABAMA.

4.- And for further answer to the complaint, the defendants say that C.B.Thompson was indebted to the Bank of Bay Minette in a large sum, to-wit, five thousand dollars, (\$5000.00), and William B. Powell, representing said bank, went with the said

Thompson for the purpose of procuring notes in said amount to be used in payment of, or as collateral security for such indebtedness, and represented to the defendants that one, W.D.Owens, who was solvent would also endorse the notes upon which the defendants became endorsers, and which are those sued on in this action, and that such notes would not be used unless and until they were endorsed by said Owen, and defendants aver that endorsement of said Owens was not secured and said notes were negotiated with said bank without such endorsement.

5.- Defendants adopt as part of this plea all the allegations of the fourth plea except the allegation that William Powell represented the bank in the transaction therein referred to, but alleges that the said bank acquired said notes with knowledge of the fact that they <sup>were</sup> obtained upon the promise and representation that they would not be used unless and until there were endorsed by said W.D.Owens.

6.- And for further answer, defendants say that C.B.Thompson secured their endorsements upon the notes sued on upon the representation that the Bank of Bay Minette would lend him five thousand dollars, (\$5000.00) thereon, with which to buy the "Gid Murphy" stock of cattle, and the said defendants believing that it would be so used, and the said Thompson, who was a dealer in cattle, would be able to sell the same at a profit and they would suffer no loss by reason of such endorsement, endorsed such notes by reason of such representation and belief, but instead of using said notes for such purpose, the said Thompson applied them to a preexisting indebtedness to said bank, either in whole or in part, and they also allege that said bank had notice of the representation above set out by which such endorsements were secured.

7.- For further plea, defendants plead, in short by consent, the general issue with leave to give in evidence any matter that might be specially pleaded.



  
ATTORNEYS FOR DEFENDANTS.

1/ I charge you, Grattan, that if  
you believe the evidence in  
this case, you should find for  
the plaintiff as against defendant,  
John Langham.

Refused  
Leigh  
Judge

2) I charge you, Gentlemen, that if  
you believe the evidence in this  
case you should find for the plain-  
tiff as against the defendant,  
J. H. Bryars.

Refused  
Largé  
Judge

3/

I charge you, Gentlemen, that  
if you believe the evidence in  
this case, you should return  
a verdict for the plaintiff.

Refused  
Legal  
Judge