
Spring 1947

In Good Faith and Without Notice

Follow this and additional works at: <https://www.repository.law.indiana.edu/ilj>



Part of the [Commercial Law Commons](#)

Recommended Citation

(1947) "In Good Faith and Without Notice," *Indiana Law Journal*: Vol. 22 : Iss. 3 , Article 4.

Available at: <https://www.repository.law.indiana.edu/ilj/vol22/iss3/4>

This Note is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in Indiana Law Journal by an authorized editor of Digital Repository @ Maurer Law. For more information, please contact rvaughan@indiana.edu.



JEROME HALL LAW LIBRARY

INDIANA UNIVERSITY
Maurer School of Law
Bloomington

BILLS AND NOTES

IN GOOD FAITH AND WITHOUT NOTICE

Plaintiff, an investment broker, purchased a bearer bond from a fly-by-night broker at slightly less than market price. The bond had been stolen from the original purchaser to whom a duplicate was issued. The duplicate was paid. Defendant

45. Nashville, C. & St. L. R.R. v. Wallace, 288 U.S. 249 (1933).
46. *Id.* at 263; Fidelity National Bank v. Swope, 274 U.S. 123 (1927).
47. Myers v. Bethlehem Shipbuilding Corp., 303 U.S. 41 (1938); Central High School Athletic Assoc. v. Grand Rapids, 274 Mich. 147, 264 N.W. 322 (1936).
48. See cases cited in n. 39, *supra*.
49. See cases cited in n. 40, *supra*.

faith"¹⁴ and absence of "notice"¹⁵ to convey a single concept of bona fides. Although this merging of two subsections of the N.I.L. has not led to erroneous decisions, it is believed that analysis of cases is facilitated by considering the component parts of the concept. "Notice"¹⁶ is merely a more detailed statement of one part of the larger abstract idea of good faith.¹⁷ It concerns the knowledge of facts¹⁸ which existed prior to the immediate transaction between the holder and his transferor. Attention is directed to the fact that notice of a defect in title, as this terminology is used in sec. 52-4 N.I.L., is limited to defects in the title of the person who negotiated the paper to the holder. Indeed, knowledge of a defect in a previous holder's title will not prevent a person from being a holder in due course unless there is an absence of good faith. Thus, when there is an infirmity in the instrument, or when the holder's transferor possessed a defective title, notice is the paramount consideration; all other situations raise the question of compliance with requirements of good faith.

CONSTITUTIONAL LAW

CIVIL SERVANTS AND THE RIGHT TO ENGAGE IN POLITICAL ACTIVITY

Employees in the classified civil service of the United States have for many years been prohibited from engaging

14. Ind. Stat. Ann. (Burns, 1933) §19-402 (3).

15. Ind. Stat. Ann. (Burns, 1933) §19-402 (4).

16. Ind. Stat. Ann. (Burns, 1933) §19-406. There may be actual or constructive notice; the latter is a legal inference from established facts. When an alleged defect appears on the face of the instrument and is a mere matter of inspection, the question becomes one of law for the court. Norton, "Bills and Notes" (4th ed. 1914) 438. Bigelow seems to adopt the doctrine of actual (or subjective test) bad faith but later qualifies this when notice is proved or presumed from disclosures on the instrument. In such cases the statute has not abolished the rule that notice maybe established by circumstantial evidence. Bigelow, "Bills, Notes and Checks" (3rd ed. 1928) §473-476.

17. See notes 12 and 13 supra.

18. 1. The title of the holder's transferor was defective; 2, an infirmity existed in the instrument; or 3. facts so strongly indicated the existence of 1 or 2 that taking the instrument would amount to bad faith. Ind. Stat. Ann. (Burns, 1933) §19-406.

19. "That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it." Ind. Stat. Ann. (Burns, 1933) §19-402 (4).