
Brent vs. Fenner et al.

BRENT vs. FENNER ET AL.

Payment, *ante diem*, is a good plea in bar, in debt on bond.
Tender, before the day, is good, and with interest from that time, and costs.

DEBT on bond, determined in Pope Circuit Court, in October, A. D. 1841, before the Hon. RICHARD C. S. BROWN, one of the Circuit Judges. Plea, payment *ante diem*. Demurrer to plea sustained, and judgment for plaintiffs.

Gilchrist & Evans, for the plaintiff.

Linton, contra.

By the Court, LACY, J.

We hold the plea to be good, upon this ground, that, when a note is payable on or before a particular day, the obligor, by the terms of the contract, reserves to himself the right to discharge the debt at any time before the day named. He is not compelled to pay it, until it falls due, and suit cannot be instituted upon it before that time; but he has the privilege of paying the note before it falls due, and it is at his option whether or not he will do so. He has a right to tender the money immediately after the execution; and a lawful tender would bar interest and costs after that time. The case is still stronger where the defendant has actually paid the money, and the plaintiff has accepted it. Having received one satisfaction for his debt, he cannot demand another; consequently, the Court erred in sustaining the demurrer.

Judgment reversed.
