

1893

The Recovery of Money Paid to a Bona Fide Holder for Value of a Foreign Negotiable Instrument

Jeremiah Joseph Hurley
Cornell Law School

Follow this and additional works at: http://scholarship.law.cornell.edu/historical_theses



Part of the [Law Commons](#)

Recommended Citation

Hurley, Jeremiah Joseph, "The Recovery of Money Paid to a Bona Fide Holder for Value of a Foreign Negotiable Instrument" (1893). *Historical Theses and Dissertations Collection*. Paper 303.

This Thesis is brought to you for free and open access by the Historical Cornell Law School at Scholarship@Cornell Law: A Digital Repository. It has been accepted for inclusion in Historical Theses and Dissertations Collection by an authorized administrator of Scholarship@Cornell Law: A Digital Repository. For more information, please contact jmp8@cornell.edu.

THE RECOVERY OF MONEY PAID TO A BONA FIDE
HOLDER FOR VALUE OF A FORGED NEGOTIABLE INSTRUMENT

THESIS FOR THE DEGREE OF L. L. B.

JEREMIAH JOSEPH HURLEY.

SCHOOL OF LAW
CORNELL UNIVERSITY.

JUNE, 1893.

C O N T E N T S.

Introduction- - - - -	3
Forgery of drawer's or customers signature - - -	5
Forgery of indorser's signature - - - - -	13
Forgery by alteration of the instrument - - - - -	15
Right to recover in general - - - - -	18
Conclusion - - - - -	26
Cases cited -- - - -	28

INTRODUCTION.

The law of commercial paper is handed down to us moulded, shaped and directed by the courts in their application of customs rules and principles, many of which are defined in what is known as the law merchant, others have been added from time to time as necessity demanded. Some of these rules are rigid and arbitrary in their application, others are based on equity reason and justice.

As commercial paper has become a medium of exchange between all parts of the civilized world, it is necessary for the protection of the ^{public} and the security of mercantile transactions that it be surrounded and protected by unvarying and well defined rules and principles. These securities early became the subject of counterfeiters and forgers, as they were more easily forged and altered than money.

We have in this treatise to deal with a branch of the commercial law in reference to these instruments, "The recovery of money paid to a bona fide holder for value of a forged negotiable instrument", which both parties, the one paying and the other receiving, thought to be genuine, but which afterwards was found to be forged. The action is for money had and received without consideration. It is the application of a quasi equitable doctrine, and is

an innovation of the rules of the common law,

In all cases of actions on negotiable instruments where the law is uncertain or the question undecided, there is a tendency to examine and to a great extent follow the holdings in other jurisdictions. In the early American Courts, the English decisions were quite uniformly followed.

Justice Story in *Swift v. Tyson* (16 Peters) truly says "It is in a great measure not the law of a single country only but the law of the commercial world". An English court refers to it as "The application of those general principles which do not belong to the laws of any country but which we cannot help giving effect to in the administration of justice".

It is the object in this treatise to review the authorities and show if possible on what principle justice a recovery is allowed in some cases and refused in others. What actions or omissions of duty on the part of either will prevent a recovery, and when two parties, both being innocent, are deceived by mutual mistake who shall sustain the loss.

WHERE THE SIGNATURE OF THE DRAWER OR CUSTOMER IS FORGED.

The principle is well settled in the jurisprudence of England and America, that money paid under a mistake of fact may be recovered back. It is immaterial whether or not the party paying acted negligently or not. The negligence of one party would give ^{the} ~~he~~ no right to retain what did not belong to him. It is no difference that the party paying had the means in his power to discover the mistake. In the case of a life insurance company paying a life policy by mistake, when by the lapse of payments of the premium, the policy had become void, which fact the directors, before paying, might have discovered by referring to their books. The court held that they might recover the money back.

"It may be recovered back, generally speaking, however careless the party paying may have been in omitting to use due diligence to inquire into the fact. In such a case the receiver was not entitled to it, or intended to have it".

Kelly v. Solari (9 M & W. 54)

Chief Justice Hunt in Kingston Bank v. Eltinge (40 N. Y.) says care and diligence are not controlling elements in the case. It is a question of fact merely, and if in consequence of such mutual mistake one party has received the property of another, he must refund and this without reference to vigilance or negligence. In applying these principles to negotiable instruments the courts have diverged somewhat from

the general doctoring, though in all cases recognizing its reason and justice. They seem to have taken upon themselves the duty of holding negotiable paper to be an inviolable security, and for the benefit of the public subject it to strict and arbitrary rules of law.

More than two centuries ago the contrary to this general principle was laid down by Lord Mansfield in *Price v. Neal* (3 Burrows). The action was one to recover money paid to the holder of two bills of exchange, by the drawee therein named, both parties at the time of payment thinking the instruments were valid, both of which, several days afterwards were found to be forged. Defendant was immediately notified and the money demanded back. One of the instruments was accepted by plaintiff before it was discounted by defendant, the other was paid without acceptance. Neal obtained both bills for value and in good faith. The right to retain the money paid on the accepted bill was conceded at the trial by plaintiff. Mansfield made no distinction between the two (as seems from the report of the case which is not very full) but based his opinion on the rule "That it was incumbent on the plaintiff to be satisfied that the bill drawn was in the drawers hand before he accepted it or paid it", also "That it was negligence on the part of the plaintiff and not on the part of the defendant".

But why was the drawee in duty bound to know the signature of the drawer? Why should the law impute negligence in the

drawee or estop him from showing his mistake?

Prof. Ames in 4 Harvard Law Review thinks that this and like cases can be supported on the principle, that as between two persons having equal equities, one of whom must suffer the legal title shall prevail. Mansfield said there was no reason to throw off the loss from one innocent man upon another innocent man, but it does not appear that he decided the case on this point, but entirely on the neglect of Price in failing to discover the forgery. Ames says "The holder paid away his money when he bought the bill, the drawee parted with his when he took the bill up".

- Can we say it is "unconscientious" in the holder to retain the money of the drawee just because he paid away his own on a worthless draft, and this before the drawee knew of its existence? We might as well say it is equitable for a man to retain money received from another by mistake in exchange for counterfeit bank bills, unless we couple with it the other rule "That the drawee is bound to know the signature of his drawer". Prof. Ames thought this did not enter into the decision. could it be equitable for anybody to obtain the property of another without some consideration.

The decision says Justice Kent "Turned on the negligence imputable to the one party and not to the other" (2 John. 462) He must know the signature, and if he is mistaken and the other party is thereby put to any disadvantage, he cannot recover.

The banker paying a bill purporting to have been accepted by their customer is put in the same position as the drawee in reference to a recovery. They are held bound to know his signature. This rule was laid down in another leading English case, *Smith v. Mercer* (6 Taunt) A banker paid a bill on the forged acceptance of his customer. Some time afterward on discovery of the forgery notice was given and the money demanded back from the defendant, the holder of the bill. Judgment was given to the defendant. The judges were not unanimous in their reason for so holding, but all however thought that the banker should know the signature of his customer. Dallas J. rested his decision "on the want of due caution in having paid the bill, the effect of which was to give time to different parties", on the supposed fault and neglect of the plaintiff, who ought to have known the signature of his customer. Mr. Chitty thinks the true reason was given by Gibbs C. J. who thought the plaintiff should not recover, "As by his act the defendant was put in a worse position". His remedies against the indorsers were lost by the neglect of the banker to give him notice of the forgery. Where a banker took up a draft for the honor of his customer whose name as endorser was forged on the instrument and on discovering the forgery gave notice immediately. He was allowed to recover. Abbot J. thought the fault was not in him alone but began with the holder. Though the banker

was negligent in not discovering the forgery of his customer's name, the case was not within the exception. He adds "where all the negligence is on one side it may be unfit to inquire into the quantum, yet where there is any fault in the other party and he cannot be said to be wholly innocent he ought not to profit by the mistake into which he led the other, at least if the mistake is discovered before any alteration in the situation of the other party" *Wilkinson v. Johnston* (3 B. & C.)

A later case in the same court refused a recovery where the notice was given on the next day after payment and in time to give notice of the dishonor of the bill to the indorsers. Yet the court thought the holder was entitled to notice on the very day of dishonor. *Cocks v. Masterman* (9 B. & C.)

The justice of the strictness of this rule has been questioned and much abated in later decisions.

These cases are quite uniformly followed in the United States. There is not in my knowledge a single case where the rule laid down in *Price v. Neal* has been entirely repudiated, though shorn in many, and limited to the exact state of facts to which it was first applied. It seems to be a rule adopted on the ground of public policy, calculating there by to sustain and promote the confidence in and negotiability of commercial securities.

the reason of the rule in the United States is based entirely on the negligence of the party paying. Where

both parties are entirely free from actual negligence in the transaction, the law imputes negligence in the payor for not known the name of his drawer or customer. Where the loss can be traced to the fault or neglect of either party it is fixed upon him. In this light the principle seems to be entirely just and equitable. Where a loss has been encountered and must be sustained by one of two innocent parties he, through whose means it has happened should be the one to suffer, although innocently mistaken; rather than he who acted not only in good faith, but without even an imputation of negligence. An early case in Pennsylvania laid down the rule very strictly and refused a recovery, although notice of the forgery was given on the day the payment was made. Holding that a bank pays a forged check at its peril. *Levy v. Bank* (4 Dallas) This is probably the most extreme case in the United States and remained the accepted doctrine of that State till changed by statute, (78 Pa. St. 233).

The rule has been applied in the United States Court to a bank cashing its own notes and failing for nineteen days to discover that they were altered since issued. The bank was held bound to know its own notes; as it had the means to know whether they were genuine; and by accepting and paying the altered notes they were concluded by their act, and could not recover from the holder who was innocent of the alteration and acted entirely in good faith. *Story J.* after thor-

oughly reveiwing th cases and authorities says "In respect to persons equally innocent where one is bound to know and act upon his knowledge, and the other is not, there seems to be no reason for burdining the latter with any loss in exoneration of the former. There is nothing unconsc^{eml}ious in retaining the sum received from the bank in payment of such notes, which its own acts have deliberately assumed to be genuine" U.S. Bank v. Banl of Georgia (10 Wheat.). This case was decided on the presumption that the holder acted entirely in good faith. The question whither or not he suffered any loss by the mistake was not touched in the case.

In Maryland the rule was upheld but was put on the loss sustained by the holder in consequence of the mistake of the drawee of the check. The bank presenting the check, though it took it from an intire stranger contrary to the usual course of business, was protected. The receiving bank showed that it acted on the payment made by the drawee bank, and that, if the drawee bank had discovered the forgery when the check was presented as it was bound to do, the holder would have suffered no loss, Bank v. Bank (30 Md. II).

In Massachusetts the rule was applied to a person receiving and paying notes on which his own name was forged. The case was put on the negligence of the payer or the supposed maker. Barker J. stated the true rule to be: " That the party receiving such notes must examine them as soon as

he has opportunity" which in this case was when they were presented for payment "and return them immediately, if he does not he is negligent and negligence will defeat his cause of action. If he pay them and continue silent, he ^hould be considered as having adopted them", Gloucester v. Salem Bank (17 Mass.) The doctoring was sustained in West Virginia on the same principle of negligence. The drawee or maker may by the exercise of due care protect himself against losses by forgery and if he pays such paper, purporting to be drawn by him or on him, the law imputes negligence in him in so doing. This imputation of negligence is based on the broad principle, "That there shall be certainty in commercial transactions, that the mercantile law shall be firm and stable and that those who deal in commercial paper may know their rights" , Johnston v. Bank (27 W. Va.) .

Judge Allen in (46 N.Y. 77) deems the question to be too well settled in the jurisdiction of the country to be overruled or disregarded. He says "It has become a rule of right and of action among commercial and business men, and any interference with it would be mischievous".

It is well settled as a rule of commercial law, that where both parties are equally innocent and the holder is a holder for value and the party paying is the imputed maker, drawee or banker of the drawee, he cannot recover back from

the party receiving, unless he give notice immediately and before the other party has acted to his detriment on the mistaking representation. He must not be negligent. And must at his peril recognize the signature, his mistake in this alone is sufficient, in the rule, to create an imputation of neglect in him and this negligence alone is sufficient to bar his recovery.

FORGERY OF INDORSERS SIGNATURE.

Where the signature of the indorser is forged, the general rule is applicable and the drawee can recover.

The courts are inclined to limit the rule to the single exception and not apply it to the analogous though slightly different facts. He is bound to the knowledge of the customer's or drawer's signature only and not that of other parties to the instrument, who may be entire strangers to him. Neither acceptance or payment at any time or under any circumstances guarantees that the first or any other indorsement is genuine. The holder in presenting the instrument for payment, on the other hand, guarantees the genuineness of the indorsements thereon. The party paying pays the instrument without consideration. The holder has neither right nor title to it, as no title can pass by forged indorsement. The title still remains in the original payee. It is a wrongful act in the holder to present the bill of another to an innocent drawee or maker, who pays it on the faith of the indorsement of the one presenting it. Nevertheless the drawee may be held liable if he acts negligently in giving notice of the forgery, and the other party is thereby injured or put in such a position as to make it unjust to require him to refund (Edwards on Bills & Notes Vol. 2 P. 599.)

In Canal Bank v. Bank of Albany (1 Hill) the drawee paid a bill on which the name of the payee was forged. Here each was in duty bound to inquire into the validity of the payee's signature. The equities of both parties were equal. It was the misfortune of both to be deceived, but the holder had no title to the bill, the owner of which still has the title and can recover despite the alteration, if he is not in fault. By payment the drawee is held only to know the signature of the drawer. The court adds, "No doubt the parties were equally innocent from a moral point of view. The conduct of both was in good faith and the negligence of both the same, but the defendant have obtained the money of the plaintiff without any consideration and must return it". The equity of this rule is just and illustrates the fallacy in Prof. Ames rule, that where the equities are equal, the loss should be left where the course of business puts it.

FORGERY BY ALTERATION OF THE INSTRUMENT

The drawee or acceptor is not bound to know the contents of the instrument. He can always recover money paid on an altered bill or note, provided however, that he acts with due diligence after discovering the forgery. It makes no difference that he accepted it in that altered form and afterwards pays it. Nor is his liability any different if it is altered after he accepts it and at time of payment fails to discover the alteration. By the certification of a check or the acceptance of a bill, the drawee guarantees that the signature of the drawer is genuine, but not that the signature of any other party to the bill is genuine. HE undertakes to pay the bill of his drawer, but is not bound to pay any other bill which, purporting to be his drawers, is accepted by him, unless it be a bill on which his drawers name is forged.

If he pays in good faith and without culpable negligence on his part, he can recover the amount as money paid on mistake of fact. It will not be such negligence, if he has the means at hand by which he could immediately detect such alteration, and neglects to use them. He is under no obligation to the holder to detect the forgery, unless it is patent on the face of the instrument, *Clews v. Bank* (89 N. Y.).

The mere negligence in the party paying in not discovering the alteration does not give the party receiving the right

to retain what is not his, when he has not been prejudiced by want of duty in the other. In *Bank of Commerce v. Trust Association* (55 N. Y.), the court puts this in a very clear light. "To render it compulsory on the court to refuse a correction of the mistake, the facts of the case must bring it within the exception to the general rule. The rules of law in relation to the correction of mistake have been gradually grown more liberal and are moulded so as to do equity between the parties. The exceptions that have been engrafted upon the commercial law, it is not our purpose to disturb, but they should not be extended". This is the general tendency of the American courts. It cannot be said to be in conflict with the learned opinion of Story in the case of the Georgia Bank (supra) where the bank was held bound by the acceptance of its notes, altered after issue. Story refers to the quasi public nature of the bank and considers the whole note as the signature of the bank. A bank being of such a peculiar nature, the bank issuing it should be bound to know each and every part of it. In that case the bank by certain lettering on notes of different denominations could have known that the ones in question were altered. The alteration was apparent on the face of the note. The whole make up of a bank note of necessity must be taken into consideration in order to decide as to its genuineness. This is not so in the case of ordinary securities, and if a party by mistake pay

his own note which has been raised after he delivered it, he should not be bound by the payment, and will be allowed a recovery, provided however he is not negligent in discovering the mistake and notifying the other party before the latter has been materially injured by the mistake.

RIGHT TO RECOVER IN GENERAL.

Where the holder is negligent and misleads the acceptor or maker there is no reason why he should benefit by the mistake of the latter. Why should a bona fide holder be permitted to retain money which he received from another by mistake, when he did not act on the representation of the other, and when he did not do all in his duty in reference to the act of the other? And this on an instrument which he could not enforce by suit. Why should a party be bound by his act in paying, whether he acted negligently in paying or not, if the other party is not thereby put in a worse position, and the instrument was one that could not be enforced against him? But the courts hold that a drawee must know the signature of his customer and a maker his own signature. Beyond that a recovery will be allowed provided the holder is not put in a worse position by the act of payment. If the holder is induced to act by the representations of the other, whether these be made on his mistake as to the facts or not, and does act to his disadvantage or loss, and the representations were made in reference to what the other was in duty bound to state or do, he clearly should be liable to answer in damages to the holder. though a drawee is bound to know the signature of his customer, and if he is mistaken he is presumed to be negligent. This is only a presumption and may

be rebutted by evidence of acts of negligence on the part of the holder and, if the holder by his negligence has led the drawee into the mistake, he should not recover.

Where the holder received several checks from a stranger which checks were drawn on different banks, some of which he found to be forged and had reason to believe that the one in question was a forgery. He presented it at the counter of plaintiff bank without making any explanation as to his suspicions or the manner in which he obtained the check. The check was paid by the drawee. A recovery was allowed. The court recognized as law the rule holding the drawee bound to a knowledge of the signature of his drawer, but distinguished this case from it and put the responsibility on the holder for misleading the bank paying by his negligence in not advising the bank of the circumstances in which it received the check. *Quincy v. Riker* (71 Ill.).

In a similar case Judge Maxwell of Nebraska laid down the rule which seems to be a just and equitable one. "That the bank to whom a check is presented by a stranger may require his identification and proof that he is the lawful holder. It must take the necessary steps to ascertain the genuineness of the check, and the identity of the person presenting it, and in case of loss from such neglect will be the party at fault. And the bank paying had the right to rely on the duty of the bank discounting. The paying bank had

a right to presume that the bank holding acted in due diligence". In this case the forgery was immediately discovered and notice given on the same day as payment was made.(24N. W. R.)

In Massachusetts the same rule was sustained, though notice of the forgery was not given for twelve days after payment. The position of the holder was not changed, there being no indorsers on the bill. Here both parties were held to be equally negligent and the drawee was allowed to recover. Wells J. based his decision on the negligence of the holder. He adds, " In the absence of actual fault or negligence on the part of the drawee, his constructive fault in not knowing the signature of the drawer and detecting the forgery will not preclude his recovery from the one who received the money with a knowledge of the forgery, or who took the check under circumstances of suspicions without proper precautions, or whose conduct had been such as to mislead the drawee or induce him to pay the check without the usual scrutiny or other precautions against fraud or mistake, Bankv. Bangs 106 Mass.; To the same effect are 88Tenn. 299; 63 Tex. 610; 4 Oh. St. 629.

The rule in Price v. Neal is well settled and should as a matter of public policy be recognized. It should not be extended beyond the single exception, of a holder without fault, without negligence and for a valuable consideration.

It is equally clear that a holder by his own negligence can put himself in such an inequitable position that it would be unjust to permit him to retain what he received from an innocent drawee by mistake and without giving any equivalent.

Except where the person paying is bound to know the signature and is concluded by his mistake, a party who by mistake of fact pays money to the holder of a forged instrument may recover and a party accepting such an instrument will not be bound by the acceptance; except, in the first case, when the party by the mistaken payment is put in such a position that it would be inequitable to make him refund, when he has suffered some loss or lost some right by the action of the party paying so that he could not be put in the same position in which he would be if the bill or note was dishonored when presented for payment; in the second case when the holder has taken the instrument on the faith of the acceptance and has suffered loss by the representation of the acceptor that the bill was good. So the party paying may, by his negligence in giving notice of the forgery after the discovery thereof or by failure to examine the instrument within a reasonable time when he is in duty bound to make such an examination, be estopped from setting up the forgery. Even a customer whose name has been forged or whose instrument has been altered after issue even though he is not a party to the

bill, ~~may~~ become chargeable with the amount paid by his bank on the instrument. Where the bank returns the instruments as vouchers together with a statement of the account, the customer or depositor was held bound to the bank by his negligence in not examining the vouchers and accounts. The court holding that he was in duty bound by the regular custom and business of banks to have done so within a reasonable time. And what would be due diligence is a question for the jury. Bank v. Morgan (117 U. S.)

In Smith v. Mercer (supra) P. 8. the change of position in the defendant , Gibb J. , thought would be sufficient reason for refusing a recovery " By the acts of the plaintiff the defendant is put in a worse position". The case of Price v. Neal might well have been decided on the same point and for ought we know this question was considered by Mansfield , the meger report of the case do not show conclusively on what ground it was decided.

The Supreme Court of Louisiana in a well considered case allowed a recovery of money paid on a forged bill which had been accepted by the drawee, but accepted after the holder had obtained it. The holder purchased the bill before the acceptor became a party to it. His loss was incurred through his own negligence and not through the fault or negligence of the acceptor. Notice of the forgery was immediately given and the holder suffered no loss by the ac-

ceptance . The court said " If the defendant had purchased the bill on the faith of the acceptance we would have no difficulty in affirming the decision of the court below but such are not the facts". This case was free from the leading circumstances of loss and delay so common to the cases following Price v. Neal, and though contrary to the opinion of Mansfield and Story, made a just distinction between a bill discounted before and one discounted after acceptance. McKleroy v . Bank (14 La. An.).

Chitty laid down the same rule and further adds " It will be found in examining the older cases that there were facts affording a distinction". The holder if he chose to take the bill on the representation of the party presenting it should not after his loss by his own fault profit by the mistake of another, when he has immediate notice of the forgery and is thereby enabled to proceed against all other parties to the bill.

In a recent case in Massachusetts where the check was paid on presentation and the forgery was not discovered for some months after a recovery was allowed, though the drawee acted negligently in not discovering the forgery sooner, but the holder had proceeded him in negligence when he bought the check. It was shown that the holder was put in not worse position than if the payment was refused when the holder presented it for payment. Danvers v. Salem Bank

(151 Mass.). The rule is the same where a party paid a note which purported to be drawn by him self. Welch v. Goodwin (123 Mass.). While in New York the acceptor of an altered bill was held bound only reasonable diligence in discover ing the alteration, and within this will not be bound for loss incurred by the other party on account of the mistake? , White v. Bank (64 N. Y. 323).

But where the teller of a bank , when a check was presented to him, which check purported to be accepted by him , said the certification was good, It turned out to be a forgery. The holder although he had paid the consideration for the check before he presented it at the bank to find if it was all right, might still have overtaken the forger and recovered the money if the bank had not misrepresented the certification. This fault alone in the circumstances of the case was held sufficient to preclude the bank from recovering. (50 N. Y. 575).

Where the parties are under the same obligations to discover the forgery, they are bound to use only reasonable diligence , and if notice is given immediately after discovery the money can be recovered back. If the party is negligent in giving notice after he discovers the forgery he will be estopped from denying the genuineness of the instrument. United States v. Gen'l Bank (6 Fed. Rep.)

Where there was a delay of about two months in discovering the forgery, the whole bill having been forged, the court said " I think it is answered by the fact that the defendant had no recourse against any actual party to the bill, and it does not appear that they have lost the means of recovering against the actual forgers by means of such delay".

Ryan v. Bank (12 Ontario).

What is a reasonable time will depend on the circumstances of the case. " Mere space of time is not important unless it is made to appear that the holder will be put to more liability, trouble or expence by a restitution than if notice had been received earlier", Bank v. Bank (30 N. E. Rep. 808).

C O N C L U S I O N .

The later case s are limiting the rule given by Mansfield in Price v. Neal and established by the earlier cases in this country, and putting the right to recover on the change of position of the holder . but just what change of position in the holder would justify the courts in refusing a recovery of money paid on a forged instrument is not yet settled. It is clear that where indorsers or transferors are relieved by the fault of the party paying or where the holder retained the consideration given for the bill till the drawee paid it, and the party paying negligently failed to discover the forgery in time to prevent the loss, a recovery would not be allowed.

The question of what would constitute negligence sufficient in any given case to bar a recovery must be decided in the light of the circumstances of the case.

The following general principles might be deducted from the cases:

I, where a payment has been made on a forged negotiable instrument through the negligence of either party and the other has suffered some damage thereby, the loss will be put on the negligent party. The negligence of the drawee or banker in not immediately discovering the forgery of the name of the drawer or customer will be sufficient negli -

gence to bar him from recovering back the money.

2, Where both parties are equally innocent, a recovery may be had in all cases, provided the party receiving the payment has not in the mean time suffered loss by the payment.

3, In all cases a recovery will be allowed, except where the party paying is bound to detect the forgery, provided, the party paying use ordinary diligence in detecting the forgery and in giving notice thereof to the holder, and regardless of negligence or diligence, when the holder has not been put in a worse position by the payment.

Jeremiah J. Furley

Bank v. Bank 30 Md.-----	-II
Bank of Commerce v. Trust Association 55N.-Y.	I6
Bank v. Bangs 106 Mass. - - - - -	20
Bank v. Morgan 117 U. S. - - - - -	22
Cocks v. Masterman 9 B .& C. - - - - -	9
Corn Exchange Bank v.Na. Bank of the Rep.78 Pa. St.-- - - - -	-10
Canal Bank v. Bank of Albany 1 Hill - - - -	-14
Clews v. The Na. Bank 89 N. Y. - - - - -	I5
Danvers v. Salem Bank 151 Mass. - - - - -	24
Edwards on Bills and Notes Vol. 2 P. 599 - -	I3
Ellis v. Ohio Ins. Co. 4 O. St. - - - - -	-20
First Na. Bank v. State Bank 24 N.W.Rep. - -	20
Gloucester v. Salem Bank 17 Mass. - - - -	I2
Johnston v. Bank 27 W. Va. - - - - -	-12
Levy v. Bank 4 Dallas - - - - -	I0
Kelly v. Solari 9M.& W. --- - - - -	5
Kingston Bank v. Eltinge 40 N. Y. -- - - -	-5
Markle v.Hatfield 2 John. --- - - - -	7
McKlaroyv. Bank 14 La. An.- - - - -	-23
National Bank v. National Bank 50 N. Y. - -	24
National Bank v. Bank 30 N. E. Rep. - - - -	-25
Price v. Neal 3 Burrows --- - - - -	6
Park Bank v . National Bank 46 N. Y. -- - -	I2

Peoples Bank v. Franklin Bank 88 Tenn.- - -	-20
Quincy v. Riker 71 Ill. - - - - -	-19
Ryan v. Bank 12 Ontario - - - - -	25
Rouvant v. Bank 63 Tex. - - - - -	-20
Swift v. Tyson 16 Peters - - - - -	4
Smith v. Mercer 6 Taunt. - - - - -	8 22
U.S. Bank v. Bank of Georgia 10 Wheat.- - -	11
U. S. v. Central Bank 6 Fed. Rep. - - - - -	24
Wilconson v. Johnston 3 B. & C. - - - - -	9
White v. Bank 64 N. Y. - - - - -	24