view last set out), yet permit parol evidence to show that the mutual understanding of the parties at the time of the transaction was that he should be held as a maker or surety. At least a note thus indorsed is admissible evidence in a suit by the payee against such indorser and the maker, as joint-makers, as a link in the chain of the plaintiff's evidence. And in Ohio, it is thought that if the undertaking of the third party can be made to take effect as an indorsement, it should always be held to do so, as conforming more nearly to the general intention of parties assuming that position upon it. Hence, if the note is not designed for the payee, and it is contemplated that the latter should indorse it as an accommodation party before it is used, then he who indorsed it at the time, or before, the note was drawn should be treated as a second indorser.

If there is no date appended to the signature of the irregular indorser, nor anything to show when it was put on, it will be presumed that he added his name at the inception of the note and before its delivery, or (what is equivalent) that he did so afterwards in pursuance of a previous agreement. But parol evidence is admissible to rebut this presumption and to show that he did not sign the instrument until after it had taken effect as between the maker and the payee, and, succeeding in this, he will change his liability from that of an original promisor to that of guarantor. It is said, however, in one case, that in favour of the original payee there is no presumption that the indorsement was before delivery; the fact must be proved; but it is otherwise in favour of a subsequent *bona fide* holder.

In Minnesora, it is held—and probably in all those States where a person so signing is regarded as an original promisor—that when the signature before delivery is proved, there arises a presumption, in the absence of evidence to the contrary, that the indorsement was made for the purpose and with the effect of giving additional credit to the note with the payee. But, as we have already seen, in New York and Pennsylvania it is directly the reverse—it is necessary to prove that such was the intention of the indorser in order to make him liable to the payee at all.

One who indorses a note that is not negotiable, as security, before delivery to the payee, cannot be charged as an indorser of the note; because there is no such thing as an "indorsement," speaking in the strict commercial sense, of non-negotiable paper; he will therefore be liable to the payee as maker or guarantor. Or, as stated in Connecticut, he contracts that the note is due and payable according to its tenor, that the maker shall be able to pay it when it comes to maturity, and that it is collectible by the use of due diligence. Of course if the note is payable to the maker or his order, the person so signing it is simply an indorser.—*Central Law Journal.*

[The authorities will be found on reference to the above publication, vol. 24, p. 3.]

NOTES OF CANADIAN CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE LAW SOCIETY.

QUEEN'S BENCH DIVISION.

JOHNSTON v. SHORTREED ET AL.

By deed dated 4th April, 1884, made between J. and S. & L., J. agreed to sell and S. & L. to purchase all the merchantable pine suitable for their purposes, standing, lying, and being on certain described property, for a sum which was then named and paid, "provided, however, that the said timber and logs shall be cut and removed off said lot on or before the 4th of April, 1884."

The defendant B. (claiming through S. & L.), after the expiration of the time agreed upon, removed logs which J. had cut after said 4th day of April, 1884, and for this J. brought this action and recovered a verdict for $125.

B. moved against the verdict on the ground that under the deed and the assignment to him he was the absolute owner of the timber, subject merely to such claim as the vendor might have against the vendees for breach of the covenant to remove the pine within the time named.