

Falconbridge, C.J.K.B., Britton, J., Riddell, J.]

[Oct. 4.]

MAXON v. IRWIN.

*Bills and notes—Alteration—Word “renewal” in margin erased
—Bills of Exchange Act, s. 145.*

Action in a Division Court, County of Essex, on a promissory note which had been altered by erasing the word “renewal” in the margin. Appeal to a Divisional Court.

Held that as the note was in the hands of a holder in due course the plaintiff should recover under s. 145 of Bills of Exchange Act.

Per FALCONBRIDGE, C.J.K.B.:—The alteration in the note was material: *Pigot's Case*, 11 Co. 27; *Master v. Miller*, 4 T.R. 320; *Davidson v. Cooper*, 13 M. & W. 343; *Suffell v. Bank of England*, 9 Q.B.D. 555; *Knill v. Williams*, 10 East 431; *Garrard v. Lewis*, 10 Q.B.D. 30. But the alteration was not apparent: *Leeds Bank v. Walker*, 11 Q.B.D. 84; *Scholfield v. Earl of Londesborough* (1896) A.C. 514; *Cunnington v. Peterson*, 29 O.R. 346.

J. H. Rodd, for plaintiffs. *Clarke, K.C.*, for defendant.

Riddell, J.]

KING v. BARTELS.

[Oct. 5.]

Habeas corpus—Escape of prisoner—Recapture—Issue of writ.

If a prisoner who has applied for a writ of habeas corpus, escape after the issue of such writ and pending the argument upon its return, and thus himself puts an end to the detention, he thereby waives all right which he might have had under the writ, and no order can be afterwards made for his release.

If, however, in such a case he be recaptured or surrender himself again into custody the Court is precluded from granting him another writ of habeas corpus under proper circumstances.

Dewart, K.C. and *Sommerville*, for prisoner. *T. D. Cowper*, for the State of New York.