

LAW SOCIETY—THE TITLE OF HOLDERS OF NEGOTIABLE INSTRUMENTS

furnished to the Judges of the Superior Courts and of the County Courts of Ontario, and that one hundred additional copies of the "Supreme Court Reports" be purchased.

The petition of Thomas Rothwell and the Report of the Committee on Legal Education therein was received and read, and the first day of next term appointed for the consideration thereof.

SELECTIONS.

THE TITLE OF HOLDERS OF NEGOTIABLE INSTRUMENTS.

We shall next refer to the cases decided in reference to fraudulent alterations of negotiable instruments, honestly obtained—a subject well treated by the *Albany Law Journal*, in a recent paper, upon which we shall draw for some of the materials of part of this article.

The general rule, as mostly prevailing and as expressed in a recent case, may be thus stated:—Where a party to a negotiable instrument entrusts it to another for use as such, with blanks not filled up, such instrument, so delivered, carries on its face an implied authority to complete the same by filling up the blanks so as to perfect, in his discretion, what is incomplete; but, the authority implied from the existence of the blanks would not authorize the person so entrusted to vary or alter the material terms of the instrument, by erasing what is written as a part of the same, nor to pervert the scope and meaning of the same by filling the blanks with stipulations repugnant to what was plainly and clearly expressed in the instrument before it was delivered: *Angle v. N.W., &c., Ins. Co.*, 3 Central L. J. 229, and cases there cited. In *Garrard v. Hoddan* (67 Penn. St., 82, followed in *Zimmerman v. Rote*, 25 Sm. 188, *Brown v. Reed*, ante, p. 499), to which we alluded at the close of our previous paper, the maker of a promissory note in the usual form left a blank between the words "hundred" and "dol-

lars" in which the words "and fifty" were introduced afterwards without his consent or knowledge. Story's Eq. Jur. sec. 387, was cited; and *Van Duzer v. Howe*, where (the maker having left the amount in blank, with authority to fill in a certain amount, which was exceeded) Denio, J., said, "The principle which lies at the foundation of these actions, I think, is, that the maker, who, by putting his paper in circulation, has invited the public to receive it of anyone having it in possession with apparent title is estopped to urge the actual defect of title against a bona fide holder." The Court held in *Garrard's* case that, the alteration being imperceptible, the maker was liable to an innocent holder for value; observing, "He could have saved all difficulty by scoring the blank with his pen. It would have been impossible almost to have written over this without leaving traces of the alteration. In that case a purchaser of the note would take it at his risk. This is, therefore, one of the cases in which it is a maxim 'that where one of two innocent persons must suffer, he shall suffer who by his own acts occasioned the confidence and the loss.'" The same doctrine, on similar facts, was held in *Yocum v. Smith*, 63 Ill. 421, and *Visher v. Webster*, 8 Cal. 109; and in *Rainblot v. Eddy*, 34 Iowa, 440, where a blank was fraudulently filled up by the insertion of words imposing interest and fixing its rates. (See, also, *Brown v. Reed*, ante, p. 499; *Trigg v. Taylor*, 27 Mo. 245; *Presburg v. Michael*, 33 No. 542; *Gillaski v. Kelly*, 41 Ind. 158; *Isnard v. Torres*, 10 La. Ann. 103; *Schryver v. Howkes*, 22 Ohio St. 308; *Redlick v. Doll*, 54 N. Y. 234; *M'Grath v. Clarke*, 56 ib. 34.) But in *Washington Savings Bank v. Ekey*, 51 Mo. 272—which case, however, is inconsistent with others in the same State (Missouri), and see *Shirts v. Overjohn*, ante, p. 430—where a blank in a note was fraudulently filled up so as to make the note bear interest at ten per cent., this was held to avoid the note in the hands of an innocent indorsee, although the alteration was imperceptible; and in *Ivory v. Michael*, 33 Mo. 398, the addition of the words "bearing ten per cent. after maturity" at the end of the note, was held to avoid it. So, in *Wade*