subsequent forgeries of the same character, they are not liable. The only limitation on this rule is that the bank shall not have lost any opportunity to obtain restitution. *Critton* v. *National Bank*, *supra*.

Our objection to the decision of the Court in the principal case is not to its statement of the law, but because it saw fit to take the case from the jury. The failure of the plaintiff to examine his checks did not, of itself, release the bank from liability for its own negligence. The question in such cases is a question of fact, to-wit, whether plaintiff's failure to examine his checks was a contributing cause of the forgery. Thus in *Leather Manufacturers Bank* v. *Morgan*, *supra*, the Supreme Court of the United States distinctly declared, that "if the defendant's officers, before paying the altered checks, could by proper care and skill have detected the forgeries, then it cannot receive a credit for the amount of those checks, even if the depositor omitted all examination of his account."

In other words, the question is always one for the jury, for the reason that when the plaintiff makes out a *primâ facie* case of forgery (as he did in this case) the burden of proof is on the defendant to establish his defence that plaintiff's negligence in failing to examine his passbook contributed to the forgery. Under such circumstances, there is no conceivable reason why the Court should take the case from the jury and give judgment for defendant as a matter of law. If the burden were on the plaintiff to shew that his negligence did not contribute to the forgery, it is easy to understand that the Court might take the case away from the jury but with the burden resting on the defendant this can hardly be justified. In the case of *Leather Manufacturers Bank* v. *Morgan*, the Supreme Court remarked, that "the question of the depositor's negligence in examining his returned passbook and vouchers was a question for the jury."

Moreover, as we understand the law on such cases the bank must prove not only that the negligence of plaintiff contributed to the forgery but that the forgery itself was of such a character as not to be easily detected. For, if the bank's officers, before paying the altered checks, could, by proper care and skill, have