the Common Pleas was *res integra*, and yet that within the four subsequent years the very point there decided has come up in no less than four different cases in the United States.

In *Foster* v. *McKinnon* the action was brought by an indorsee for value without notice of any fraud against an indorser. It appeared that one Callew, who was in fact the acceptor of the bill sued on, produced the bill to the defendant, and by representing to the defendant that the document was merely a guarantee for certain money required for the furtherance of a railway scheme, induced the defendant to put his signature after that of one Cooper, the first indorser. The defendant, who was a gentleman much advanced in life, never saw the face of the bill at all. In the absence of negligence the Court held that the defendant was not liable, and that he was entitled to a verdict on the plea traversing the indorsement. This decision has been followed in the cases of *Whitney* v. *Snider*, 2 Lans. 477, *Gibbs* v. *Lunabury*, in the Supreme Court of Michigan, 22 Mich. 479, and in *Chapman* v. *Rose*, in the Supreme Court for the second department of the State of New York. The Supreme Court of Iowa held a different rule in a case of *Douglas* v. *Matting*, 29 Iowa, 498; 4 Am. R. 238.

In *Chapman* v. *Rose*, the defendant, a farmer, was accosted in his barn by a "smart" person named Miller, who ostensibly came to do business about certain patent hay forks. The scheme was that the farmer Rose should give an order for forks, and also undertake an agency to sell them. With this object the farmer signed two documents, one supposed to be the order, and the other the contract for agency, and Miller left supposed counterparts with him. Some time afterwards Rose was sued by the plaintiff as indorsee for value of a promissory note, by which Rose had promised to pay Miller or bearer 270 dollars, and the defendant then discovered for the first time that he had not signed an order for hay forks but a promissory note. In giving judgment Mr. Justice Tappan said:—"The law merchant has been extended to all proper lengths for the protection of innocent holders for value of commercial paper not matured, but when the instrument is not commercial paper that protection ceases. The term 'commercial paper' may be held to include notes, bonds, and securities saleable in the market. In *Foster* v. *McKinnon*, 38 Law J. Rep. (N.S.) 310 (a recent case), the full bench of the English Common Pleas held that the defendant was not liable under circumstances similar to, but not so strongly in favour of the defendant as, the circumstances in this case; and Mr. Justice Byles remarks in the opinion that the party sought to be charged never saw the face of the bill (which had his indorsement); that its purport was fraudulently misdescribed; that when he signed one thing, he was told and believed he was signing an entirely different thing, 'and his mind never went with the act.' And he distinguishes it from that class of cases when the party, 'with knowledge,' writes his name across or upon a paper which is fraudulently used or diverted. Where the party sought to be charged by his signature shows that he never intended to put his name to any such instrument; that he was deceived as to its actual contents, and that he is not chargeable with laches, negligence, or misplaced confidence, which is negligence, he will not be held liable even to a *bona fide* holder before maturity. The reason is, that there is no contract where there is no assent, and it would be a perversion of terms to hold the instrument in question a contract, with all the facts stated. It had neither life, inception, nor validity."

At the time of the decision of *Foster* v. *McKinnon*, in spite of the very high authority of Chief Justice Bovill, and Justices Byles, Montagu Smith, and Brett, who composed the Court, there was some scepticism in the profession as to the soundness of the doctrine thereon determined. We think that the knowledge that in three cases out of four in State Supreme Courts in the United States that decision has been followed, ought to reconcile the dissentients to the ruling of the Court of Common Pleas. It must, we think, be admitted that the Courts of the United States are peculiarly strong in the law affecting negotiable instruments.—*The Law Journal.*