

Chilean Court for leave to pay money into court to release the vessel, and to have obtained leave to contest the defendants' claim in that court.

BILL OF EXCHANGE—IRREGULAR INDORSEMENT—INDORSEMENT BY WAY OF SECURITY—BILLS OF EXCHANGE ACT, 1882 (45-46 VICT. c. 61), ss. 20, 55, 56—R.S.C. 119, s. 31, 130, 131.

*Starr v. Holland* (1913) 2 K.B. 15. In this case a similar question was in issue to that in *Robinson v. Mann* (1901) 31 S.C.R. 464; and *Duthie v. Essery* (1895) 22 App. R. 291, and the Court of Appeal (Williams, Farwell and Kennedy, L.JJ.) have come to a contrary conclusion. The plaintiffs drew a bill on a company to whom they had sold goods for the price, payable to their own order, there being an agreement that the defendants, who were directors, should indorse the bill. This they did before any indorsement of the bill by the plaintiffs as payees. In this condition the bill was returned to the plaintiffs, and in the present action they claimed to recover against the directors as indorsers. Section 56 (R.S.C. c. 119, s. 131) on which Strong, C.J., founded his judgment in *Robinson v. Mann*, in this case is held not to be applicable to such a state of circumstances, because, as the court holds, the bill not having been indorsed by the payees, it was never really negotiated. Their Lordships followed *Jenkins v. Coomber*, 1898, 2 K.B. 168, which decided that the principles laid down in *Steele v. McKinlay*, 5 App. Cas. 754, are not affected by the provisions of the Bills of Exchange Act. Before parting with this case it may be noted that while *Robinson v. Mann* was followed by the Court of Appeal in *McDonough v. Cook*, 19 O.L.R. 267, the Divisional Court on an appeal from a County Court, as being the final Court of Appeal in such cases, refused to follow *Duthie v. Essery*, and followed *Jenkins v. Coomber*, *supra*; see *Canadian Bank of Commerce v. Perram* (1899) 31 Ont. 116; and see also *Clapperton v. Mutchmor* (1899) 30 Ont. 595. As the Appellate Division is now the tribunal for disposing of appeals from County Courts, it will probably consider itself bound by *Robinson v. Mann*, rather than *Canadian Bank of Commerce v. Perram*, notwithstanding its being a final court in such cases. One cannot but fail to see, however, that if the question ever reaches the Judicial Committee of the Privy Council, there are very considerable chances that *Robinson v. Mann* might be overruled.