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ALTERATION OF NUMBER OF BANKNOTES.

A decision of considerable interest has been rendered by the English Court of Appeal, in *Suffell v. Governor and Company of Bank of England*. The case will be found reported in 47th L. T. Rep. N. S. 146. The Court holds that an alteration of the number printed on a Bank of England note is a material alteration of the note, which renders it void, and discharges the Bank from any liability in respect of it to an innocent holder for value. The case was explained by Lord Justice Brett, in the following terms:

"In this case the plaintiff for full value and with perfect innocence, bought certain Bank of England notes, and presented them at the bank for payment; the bank declined to pay them; thereupon the plaintiff brought an action for the precise amount of these notes, that is, for the exact sum which the bank undertook to repay to the holder of them. The question is whether the innocent proprietor of those notes can recover the exact amount for which the bank issued them, or whether the bank can say, we decline to pay the very sum which by the issue of the notes we undertook to pay to the person who should present them. If the bank is not liable to pay the amount of these notes there is a great hardship inflicted upon the innocent purchaser; and the bank, so far as these instruments are concerned, will escape the obligation to pay the very sum which they undertook to pay for value received when these instruments were issued by them. As between the individual parties in this case therefore there can be no question that one would get a great advantage, and that a considerable hardship would be inflicted upon the other. After these notes had been issued, one of the figures in the numbers of each of them was altered; some person purposely altered that figure with a fraudulent intention to prevent the tracing of the notes. It is a material point that the alteration was purposely made. It is argued that the intentional

alteration of the numbers of the notes does not relieve the bank from paying the holder of them; that the alteration does not affect the contract contained in the notes; that there is no evidence that the notes were stolen, no evidence how the person who made the alteration came into possession of the notes. The argument on the other side is that the person, whether thief or not, having possession of these instruments, which were bank notes, could so long as they were unaltered, have enforced payment of them upon the bank. It is argued that a bank note besides being a contract is a piece of currency, so that the payment of a debt by a bank note is a good payment; and that the holder of a bank note is entitled to payment by the bank however the person who paid it to him got possession of it, because it is a part of the currency. It is said that whether the contracts contained in these notes have been altered or not, there has been an alteration which affects their identity, and is therefore material."

The learned judges were agreed that an instrument containing a contract may in some cases be avoided by an alteration which does not affect the contract. Lord Justice Cotton said:—"The principle really is not that an alteration of the contract, but that any substantial alteration of the instrument vitiates it. What is the instrument that we have to consider in this case? A Bank of England note. Can it be said that the number is not an essential part of the note? No one for years would have taken a note without a number upon it. The Bank of England in order to secure as far as they can the persons who hold their notes from loss, when notice has been sent to them of the numbers of any missing notes will stop them, and so far as possible protect the public. The numbers upon the notes are therefore a protection to the holders of them; and they are also a protection to the bank. The numbers must be a protection to the bank, because the bank knows when a note is presented for payment if a note with that number is in circulation, and they are therefore of importance in detecting forgery. The person who has altered the numbers of these notes has, in my opinion, made a material alteration of the instruments, and consequently the plaintiff, who is the holder, cannot recover on them."

The decision of Lord Chief Justice Coleridge in the Court below was overruled.