

should draw a bill on Arthur Coomber, which Alfred Coomber, the defendant, should indorse. The plaintiffs accordingly drew a bill on Arthur, payable to their own order, which was accepted by Arthur, and indorsed by Alfred Coomber, and handed to the plaintiffs, and afterwards indorsed by them. Under these circumstances it was held by Wills and Kennedy, JJ., that the defendant was not liable to the plaintiffs as indorser under the Bills of Exchange Act, s. 56 (53 Vict. c. 33, s. 56 D.), because when he indorsed it, it was not a regular and complete bill of exchange, it not having been then indorsed by the plaintiffs, to whose order it was made payable. Neither was the defendant liable as an indorser to the plaintiffs under s. 55, s.-s. 2 (53 Vict. c. 33, s. 55 D.) because they were prior parties to the bill, and the case was therefore governed by *Steele v. McKinlay*, 5 App. Cas. 754, the contract of indemnity on which the plaintiff relied as making the defendant primarily liable to the plaintiff not being recognized by the law merchant, and as a contract of suretyship being insufficient under the Statute of Frauds.

In connection with this case *Duthie v. Essery*, 22 A.R. 191, may be referred to, where an indorser indorsed a note before it had been delivered to the payee or indorsed by him, but nevertheless was held liable to a holder "in due course."

SHERIFF—EXECUTION—GOING OUT OF POSSESSION—ABANDONMENT OF SEIZURE.

In *Bagshawes v. Deacon* (1898) 2 Q.B. 173, the question upon an interpleader issue was whether a sheriff, who had seized the goods in question, had gone out of possession. Deacon, the execution creditor, had a judgment against Bagshawe Bros. on which he issued execution which he placed in the sheriff's hands, who seized thereunder the goods in question. Bagshawe & Bros. had previously agreed to sell the property seized to a trustee for Bagshawes, Limited, and on 10th July, when the sheriff went in, the sale was about to come off. The officer was told that the goods were about to be sold, and he was given a paper by one of the execution debtors under which, if the man in possession was withdrawn, he was to be at liberty to re-enter at any time until the action