

From Street, J.] BANQUE PROVINCIALE v. ARNOLDI.

[Nov. 11.]

*Bills and notes—Alteration—Joint and several liability—Principal and surety—Judgment.*

The insertion by the holder of a promissory note signed by several persons, some of whom are sureties for the others, of the words "jointly and severally" before the words "promise to pay" is a material alteration which avoids the note, and the subsequent cancellation of the words by the holder does not do away with the effect of the alteration, even though the makers of the note do not know of the alteration until after the cancellation.

A promissory note given to the holder after the alteration and cancellation in renewal of the original promissory note and in ignorance thereof, cannot be enforced, there being no consideration to support it.

Accepting in renewal of a promissory note, some of the makers of which are to the knowledge of the holder sureties, of a promissory note not signed by one surety discharges the co-sureties.

A judgment recovered against debtors in their firm name for the amount of the debt is not a bar to the recovery of judgment against them individually upon a promissory note, given by them as collateral security for the same debt.

Judgment of STREET, J., varied.

*J. F. Orde*, for appellants Kirby, et al. *R. G. Code*, for the appellants Arnoldi, et al. *Aylesworth*, K.C., and *W. H. Barry*, for respondents.

From Ferguson, J.]

[Nov. 15.]

McHUGH v. GRAND TRUNK R.W. Co.

*Executors and administrators—Fatal Accidents Act—Death of beneficiary—Survival of action.*

Upon the death of the beneficiary on whose behalf an administrator is bringing an action under the Fatal Accidents Act, R.S.O. 1897, c. 166, the action comes to an end. It cannot be continued for the benefit of the beneficiary's estate, nor can a new action be brought by the beneficiary's personal representative. Judgment of FERGUSON, J., 32 O.R. 234; 36 C.L.J. 711 reversed.

*W. M. Douglas*, K.C., and *D. L. McCarthy*, for appellants. *Mabee*, K.C., and *Middleton*, for respondent.