

**LIABILITY OF BANK FOR FAILING TO DETECT
FORGERIES WHEN DEPOSITOR DOES NOT
VERIFY BANK STATEMENT.**

Does the fact that a depositor fails to verify his bank statement each month and examine his cancelled checks release a bank from liability for forgeries committed by an employee? The U.S. Circuit Court of Appeals (2nd Cir.) recently held that it does. *Hammerschlag Mfg. Co. v. Importers and Traders National Bank*, 262 Fed. Rep. 266. In this case it appeared that defendant permitted its bookkeeper to make out all checks which were then signed by the vice-president. Some of these checks were payable to bearer and intended to compensate the bookkeeper for petty cash items. These checks, after signing, were raised by the bookkeeper to larger figures and cashed at the bank. This practice continued for more than a year before it was finally discovered, upon which the plaintiff company sought to hold the bank liable for paying the checks which had been so raised. The bank claimed that since plaintiff corporation had made no complaint of the improper payment of checks on receipt of its monthly statements and cancelled checks, defendant was relieved of liability for checks paid more than a year previous to plaintiff's demand. The trial court took the case away from the jury, first, on the question of fact, whether the alteration was discoverable by reasonable care on the part of the bank; and second, on the question of law, whether plaintiff was not guilty of laches in failing to complain to the bank within 30 days after receipt of cancelled checks in accordance with the rule of the bank. The Court of Appeals, in affirming the trial Court's decision, decided both these questions in favor of the bank.

It is difficult to understand on what ground the trial Court felt bound to take the case from the jury on the question of fact as the evidence set out by the Court was conflicting. On the second point respecting plaintiff's negligence in failing to examine its cancelled checks, the position of the Court of Appeals, in sustaining the trial Court's action, raises an interesting question. The Court said: