1876. A majority of the creditors, in value and number, including the wife and daughter of the insolvent, who were claimants, executed a deed of composition and discharge in consideration of a payment by him of 65 cents in the dollar. The wife and daughter consented to postpone their claim to the composition until the other creditors were paid. The insolvent then formed a partnership with one M., and it was arranged between them that the amount of these claims should remain in the business for the uses of the firm, and that they should receive interest thereon. The new firm also went into insolvency before the composition was paid, whereupon the wife and daughter claimed to rank on the estate with the other creditors.

Held, affirming the judgment of the County Court, that the assets of the old firm, which by the deed of composition and discharge were assigned to the insolvent, having been transferred to the new firm for what must be assumed was a valuable consideration, the claimants could not be postponed to the creditors of the old firm.

Kerr, Q.C. (*W. R. Mulock* with him) for the appellants.

M. C. Cameron, Q.C., for the respondent.

Appeal dismissed.

From C. P.] [June 25th.

Merchants' Bank v. Bostwick.

The judgment of the Common Pleas, reported 28 C. P. 450, was affirmed.

S. Richards, Q.C., and *Bethune*, Q.C., for the appellants.

Robinson, Q.C., for the respondent.

Appeal dismissed.

QUEEN'S BENCH.

IN BANCO—EASTER TERM.

Wesloh v. Brown.

Promissory Note—Indorsee—Alteration without notice—Promise to pay.

After making of a promissory note, it was altered by the maker, as to the time of payment, without the consent of the indorser, who, however, but without knowledge of the alteration, promised to pay it: *Held*, in an action against the indorser, that the alteration having been made without his authority, rendered the note void, and that no subsequent promise by him to pay could have the effect of ratifying it.

Held, also, that without *actual* knowledge, the promise to pay amounted to nothing, the means of knowledge alone being insufficient.

Richards, Q. C., for plaintiff.

F. Osler for defendant.

Rule absolute to enter nonsuit.

Black v. Reynolds.

Interpleader—Delay in giving security—Neglect of Sheriff to appraise—Effect of—Sale of goods by Sheriff—Action against—Estoppel.

In trover for the value of a piano, sold by the defendant, as Sheriff, under an execution, it appeared that an interpleader had been directed as to the piano, the plaintiff to give the usual security within 20 days. The defendant, though applied to, neglected to appraise the value of the piano, until impossible for the plaintiff to give the required security. Security was, however, afterwards given, but the defendant, notwithstanding, sold the piano, contending that he was justified in so doing, as the plaintiff had not complied with the terms of the order.

Held, that plaintiff having been prevented by the defendant's neglect from complying with the order, defendant was estopped from saying that plaintiff's non-compliance therewith justified him in selling the piano.

Held, also, that the effect of defendant's neglect was either to deprive him of the protection of the order or to operate as a waiver of the time thereby limited for giving security.

H. Cameron, Q. C., for plaintiff.

F. Osler for defendant.

Rule absolute to enter verdict for plaintiff for $450.

Brown v. Morrow.

Will—Search—Memorial by heir-at-law—Declaration against interest—Evidence.

A witness swore that she had seen the will, giving an explicit statement of its contents; and it further appeared that the devisees, among them the heir-at-law, all submitted to and acted upon it:

Held, sufficient evidence of the existence of the will.

Held, also, that the heir-at-law's execution