SELECTIONS.

NOTES OF CASES IN UNITED STATES.

In *Glover* v. *Burbridge*, South Carolina Supreme Court, Oct. 6, 1887, plaintiff deposited with defendants, as accommodation depositaries, a sum of money, which was sealed up in an envelope and placed in their safe, and took a receipt therefor. In an action to recover the sum, the trial court, in enumerating the matters which would amount to gross negligence so as to make the defendants liable, stated that if the money was abstracted out of the safe by any one of their employees who were occasionally sent to the safe, the defendants would be liable. *Held*, that as the question was whether defendants exercised ordinary care in reference to the deposit, this was to be determined by what was their business habit in regard to entering their safe, and the question should have been left to the jury. The court said: "We agree entirely with the announcement here made of the general principle, that naked depositors are only liable for gross negligence or a lack of ordinary care. But we think that in enumerating the matters which would amount to gross negligence, the rule, as applied to employees sent to the safe, was stated somewhat too positively and broadly. In the connection here, the question was not whether a principal is responsible for the criminal act of his servant, or if so, to what extent; but it was simply whether the defendants exercised ordinary care in reference to the deposit, which, as it seems to us, was to be determined by what was their business habit in regard to entering their safe. When the plaintiff voluntarily made the defendants his accommodation depositaries for a day or two, he must be taken to have done so with reference to the fact that they had a safe, and to their known habits of business in regard to it. If it was the habit of the defendants occasionally, as found necessary or convenient, to send a trusty clerk to the safe with a key, we can hardly suppose that by accepting the deposit they bound themselves to a higher degree of care than they habitually exercised in their own business, and in reference to their own cash. The very question was as to ordinary care—whether the occasional sending of a trusty clerk to the safe was, under the circumstances, less than ordinary care, and necessarily gross negligence. 'When the bailment is for the sole benefit of the bailor, the law requires only slight diligence on the part of the bailee, and of course makes him answerable only for gross neglect.' Story Bailm., § 23. 'If goods deposited are stolen by the servants of a private depositary, without gross negligence on his own part, he is not chargeable any more than he would be if the theft were by a stranger.' Story Bailm., § 88, *Foster* v. *Bank*, 17 Mass. 479. 'The fidelity which the depositary ought to apply to the care of the thing confided to him, should be the same which he applies to the care of his own.' Story Bailm., § 65. In any view that can be taken, it seems to us that the question was not one purely of law, but to a large extent at least, one of fact, and should have been left to the jury." McIver, J., dissented.

In *Coleman* v. *Jenkins*, Georgia Supreme Court, April 18, 1887. Bleckley, C.J., said: "Now, there is high authority for saying that 'he that is robbed, not knowing what is stolen, let him not know it, and he's not robbed at all.' This, though good dramatic law, would perhaps not hold in real life. But another less poetic proposition is both sound and applicable to business. He that thinks he is robbed, but having in his own purse what he thought was stolen, is not robbed at all. When one gets his due ignorantly, if he is not hurt by his ignorance, it is the same as if he acted with knowledge. Thus, where a negotiable promissory note was transferred before maturity as collateral, and was afterward paid off in property, not to the holder but to the payee, who collected without authority, and who, after converting the property into money, transmitted the proceeds to the holder as his own money, and the holder applied the same to the secured debt only, not applying it also to the collateral, and not knowing that he was dealing with a fund