

from the earlier cases. If the payee is fictitious or non-existing, the bill may, as regards all persons, be treated as payable to bearer. It was held further that the word "fictitious" is applicable not only to a creature of the imagination having no real existence, but also to a real person named as payee who has not, and never was intended by the drawer to have, any right upon or arising out of the bill. The section applies, although the bill (so called) is not in reality a bill, but is in fact a document in the form of a bill manufactured by a person who forges the signature of the named drawer, obtains by fraud the signature of the acceptor, forges the signature of the named payee, and presents the documents for payment, both the named drawer and the named payee being entirely ignorant of the circumstances: *ib.*

SUMMARY OF LEADING CASES:—

At this point it may be convenient to give a summary of the facts of the *Vagliano Case* and of the other leading cases decided under the Act:

1. A bill purporting to be drawn by A. to the order of C. & Co., and to be endorsed by them, is accepted by the drawee payable at his bankers'. The bankers pay it at maturity. A. is a correspondent of the acceptor's, who often draws bills in favour of C. & Co. It turns out afterwards that the names and signatures of the drawer and payees were forged by the acceptor's clerk, who obtained the money. Under these circumstances C. & Co., are fictitious payees and the bankers can debit the acceptor's account with the sum so paid: *Bank of England v. Vagliano* (1891) A.C. 107; discussed in 7 L.Q.R. 216, 10 L.Q.R. 40.

2. A clerk, by false pretences, induces the plaintiff, his employer, to draw cheques in favour of B., a non-existing person. He then forges an endorsement in B.'s name, and negotiates the cheques to the defendant for value. The bankers pay the defendant. The plaintiff cannot recover from the defendant the money so paid: *Clutton v. Attenborough* (1897) A.C. 90; cf. *Vinden v. Hughes* (1905) 1 K.B. at p. 800.