

at maturity, but payment was refused. At the time of the negotiations there was no person or firm in Melbourne of the name of J. Shackell & Co, or Jas. Shackell & Co., but at a time some years previous to the making of the note there had been a certain James Shackell carrying on business in Melbourne under the style of James Shackell & Co. The Mr. James Shackell was still living in Melbourne at the time of the making of the note, but had ceased to carry on business. The plaintiffs were not aware of these facts. The defendants when they made the note were not aware of the fact that J. Shackell & Co. had ceased to exist, but believed they were in fact dealing with that firm, and in that belief inserted the name of J. Shackell & Co. as payees of the note.

Under these circumstances the Court held that the payee was a fictitious or non-existing person, and that the note should be treated as payable to bearer, and on this ground ordered a verdict to be entered for the plaintiff bank.

IN THE COURT OF APPEAL, ONTARIO

Donogh vs. Gillespie

Bankers are subject to the principles of law governing ordinary agents, and, therefore, bankers to whom as agents a bill of exchange is forwarded for collection can receive payment in money only, and cannot bind the principals by setting off the amount of the bill of exchange against a balance due by them to the acceptor.

Judgment of the County Court of York affirmed.

This was an appeal by the defendants from the judgment of the County Court of York.

The plaintiffs, who were lumber merchants carrying on business at Toronto, on the 29th of June, 1892, sold to the defendants, who carried on business at the village of Alvinston, certain lumber, the price of which was \$299.18, and on the 2nd of July, 1892, drew upon them for the price, the draft being as follows:—

\$299.18

Toronto, July 2nd, 1892

Three months after date, pay to the order of the Canadian Bank of Commerce, two hundred and ninety-nine $\frac{18}{100}$ dollars, at Alvinston. Value received.

To M. Gillespie & Co.

Donogh & Oliver

Alvinston

This draft the plaintiffs, in the ordinary course of business, discounted with the Canadian Bank of Commerce, Toronto,