

best of the defendant's belief, and that the defendant did not at any time become responsible for the indebtedness of the said Cranston.

The witnesses examined were the plaintiff's clerk, who was present when the order was given for the clothes, who delivered the letter to defendant, and who also proved the facts with regard to plaintiff's attempt to collect his account from Cranston. The defendant examined a witness, who proved that, at the time the letter was given, Cranston was in regular employment in the city of Montreal, and in receipt of a fair salary. It was also admitted that plaintiff gave no consideration for the letter. At the suggestion of the defendant's counsel, defendant himself was examined by the Court, and stated that he had known Cranston as a boy, knew his family, and that he was respectably connected; he also knew that, at the time he gave the answer, Cranston was in a situation in Montreal. Being further examined by the Court, it appeared that he had not seen much of Cranston for about nine years, and was not intimate with him while he was in Montreal. Being asked if he knew anything against him, he said, that he had heard that, about two years ago, Cranston had been arrested on a charge of embezzlement, but that he did not consider this against him because he had been discharged.

The Court, in rendering judgment, considered the defendant had acted very imprudently in answering as he did; that he was not bound to answer at all, but that, having undertaken to do so, it was his duty to tell the plaintiff exactly what he knew about Cranston; that the plaintiff's loss had been caused by this imprudence, and defendant, consequently, would be condemned to pay the amount of the loss with costs. Judgment for \$27.50 and costs.

W. J. White, for plaintiff.

F. E. Meredith, for defendant.

HOUSE OF LORDS.

March 5, 1891.

THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND v. VAGLIANO BROTHERS. (26 L.J. N.C.)

Banker—Bill of exchange—Forged instrument—Genuine acceptance—Payment by banker—Negligence of customer—'Estoppel'—'Fictitious or Non-existing' payee—Bills of Exchange Act, 1882, s. 7, subs. 3.

The respondent's clerk, by forging letters of advice and preparing and filling in forged drafts, in which he inserted the name of a foreign correspondent as being that of the drawer, and the names of a foreign firm who were existing persons and actual correspondents of the respondent as payees, procured his employers' acceptance of these forged instruments and obtained payment of them across the counter from the appellant bank. The clerk appropriated the moneys to his own use.

Held by Lord Halsbury, L.C., the Earl of Selborne, Lord Watson, Lord Herschell, Lord Macnaghten, and Lord Morris, *dissentientibus* Lord Bramwell and Lord Field, reversing the Court of Appeal, that the loss incurred on the forged bills must fall upon the respondents. Whenever a name is inserted in a bill as that of payee by way of pretence merely, without any intention that payment shall be made in conformity therewith, the payee is a 'fictitious' person within the meaning of the Bills of Exchange Act, 1882, s. 7, subs. 3. *Roberts v. Tucker*, 20 Law J. Rep. Q. B. 270; L. R. 16 Q.B. 560, explained and distinguished. Judgments of Charles, J. (58 Law J. Rep. Q.B. 27) and the Court of Appeal (58 Law J. Rep. Q. B. 27) reversed.

DECISIONS AT QUEBEC.*

Servitude—Passage—Enregistrement—Usufruitier.

Jugé :—1. L'Acte 44-45 Vict. (Q.) ch. 6, qui exige l'enregistrement des titres créant les servitudes discontinues et non apparentes, pour leur conservation vis-à-vis des tiers, ne

* 17 Q. L. R.