

former member of the firm resided in Melbourne, where the firm formerly carried on business. The payees' name was forged and the note negotiated to the plaintiff who took in good faith. It would seem that the case might have been disposed of in the plaintiff's favour on the ground that the note was payable to a non-existing person. The Court reached the same conclusion, but based its decision upon the ground that the case fell "precisely within the law laid down in *Bank of England v. Vagliano*, which is to the effect that wherever the name inserted as that of payee in a bill or note is inserted without any intention that payment shall only be made in conformity therewith, the payee becomes a fictitious person within the meaning of the Bills of Exchange Act and that such bill or note may be treated by a legal holder as payable to bearer." It is not easy to see the application of this doctrine to the facts before the Court as the makers of the note did in fact intend that the named payees should receive payment in conformity with the terms of the note. The judgment then proceeds, as follows, laying down a similar doctrine to that upon which the Court of Appeal relied in the *London Life Case*: "Here James Shackell & Co. the supposed payee, even if an existing firm, had no interest in the note, no right to endorse it or be paid upon it, and as they had not, then no person as payee had any such right. The payees were accordingly fictitious persons, and the plaintiffs are therefore holders of this note as if it were payable to bearer, and may as such holders sue the defendants as makers."

When a bill is payable to the order of a fictitious person, it is obvious that a genuine endorsement can never be obtained. The Act makes such a bill payable to bearer. But inasmuch as a bill payable to one person, in the hands of another, is patently irregular, it is clear that the bill should be endorsed, and perhaps a bonâ fide holder would be just in endorsing it in the payee's name. Though the bill may be payable to bearer, it is clear that a holder who is party or privy to any fraud acquires no title. What the Act has done is to declare that the mere fact that a bill is payable to a fictitious person shall not