

which he received, and he sent to Addison his note the contract, and a warranty by the insured, and that any false representation by him of the condition, situation or occupancy of the property, or any omission to make known a fact material to the risk, was to avoid the policy. In an action upon the policy, judgment has been given by the Supreme Court of Canada, reversing the judgment of the Supreme Court of New Brunswick, holding that, as the application was more than once referred to in the policy, it was a part of the contract for insurance, and that the misrepresentation as to the ownership of the land voided the policy. *Norwich Union Fire Insurance Company vs. LeBel*, 19 Can. L. T. 239.

LIABILITY BETWEEN BANKS FOR FORGED CHEQUE.

Judgment has been given in the interesting legal fight between the Bank of Hamilton and the Imperial Bank. As noted in the *THE CHRONICLE*, when the action was tried, one Carl Bauer having \$10.23 at his credit with the Bank of Hamilton in Toronto, drew a cheque for \$5, and had it marked good. He then raised it to \$500, and deposited it to the credit of an account which he opened with the Imperial Bank in Toronto. He then drew cheques upon this new account, to the extent of \$485, and received the money. The cheque so deposited with the Imperial Bank was sent by that Bank, with the other cheques drawn upon the Bank of Hamilton, to the Toronto clearing house in the usual way, and as a result of the accounting there, \$500 was paid by the Bank of Hamilton to the Imperial Bank upon the cheque in question, instead of \$5. In the proceedings which followed, the former bank sought to recover back the \$495 over paid:—

Mr. Justice MacMahon who tried the case without a jury holds that the fraudulent alteration of the cheque constituted a forgery; and the condition of the cheque when certified by the Bank of Hamilton afforded ample opportunity for the commission of the crime; but, under the law as now settled by the House of Lords, a bank upon which a cheque is drawn, in certifying it, is under no duty to take precautions against fraudulent alterations, after certifying it, any more than the acceptor of a bill of exchange is under a duty to take precautions against fraudulent alterations in a bill after acceptance. He holds also that the claim of the Bank of Hamilton for the amount overpaid was not in any way prejudiced by the rules of the clearing house, and that there was no negligence on the part of such bank, as the course it pursued in regard to the certified cheques was the one universally adopted by the banks, since the establishment of the clearing house, and that the holder of the cheque, the Imperial bank, was not deprived of any rights, nor was its position altered by the fact that notice of the forgery was not given until the following day. Judgment for the plaintiffs for \$495 and costs. *Bank of Hamilton vs. Imperial Bank of Canada*, Osgoode Hall, 15th July, 1899.

MONEY-LENDER WITH FICTITIOUS NAME.—A gentleman by the name of Street was desirous, in the month of August, 1898, of borrowing £100, and an advertisement attracted his attention which contained the following:—"Money promptly and privately advanced, on promissory note, at about one-tenth of the interest charged elsewhere, privacy guaranteed without the objectionable features of the ordinary loan office, apply personally or by letter to George James Addison, 3 Holles Street, Cavendish Square." As a result, Street arranged by mail for a loan of £100,

for £150 to cover the advance and interest. The note was not paid at maturity, and Street was pressed for payment. On the 18th of December he wrote Addison offering to pay in instalments, and the next day received a very bitter letter signed by Addison, threatening writs and bailiffs and bankruptcy, etc. This surprised Street so much that he made enquiry, and found that he was really dealing with a money-lender, referred to as the notorious Isaac Gordon, who carried on business under six or eight different aliases at Birmingham, Bristol, Bath, Manchester, Liverpool, Oxford, London and Leeds. The next day Street wrote Gordon charging him with being the notorious Gordon, and further lively correspondence followed, in which Gordon disclosed his identity. Street offered to pay £110, but this only caused Gordon to write a more abusive letter than ever, which he followed with a writ against Gordon for the full amount of the note. Gordon paid £110 into Court, and defended as to the balance, claiming that he had been induced to borrow the money, and to sign the note sued on, by the fraud of the plaintiff, and that upon discovering the fraud he repudiated the transaction, and he counterclaimed for £400 damages for the libels contained in Gordon's letters.

At the trial the jury found that Gordon had fraudulently concealed his identity, so as to induce Street to borrow the money, believing that he was dealing with one Addison, and they also found that Gordon had repudiated the contract within a reasonable time after he discovered that Addison was really Gordon, and they awarded him £400 damages for the libel, and on these findings judgment was entered for the defendant.

The money-lender was not satisfied with this state of things, and carried his cause before the English Court of Appeal. It was argued for him that the mere fact that one of his clerks had copied the letter containing the libellous statements was not sufficient publication of the libel, and that anyway £400 were excessive damages. He did not seek to show that there was no libel. On the question of the liability on the note, it was contended that the fact that fraud was proved did not make any difference for whether Street contracted with Gordon or with any other lender of money to take a loan of £100 and pay £50 for it, it was the same thing to the defendant, for when the day of payment arrived he would, by law, have to pay the money, and it mattered not to him who that person was.

The three judges of the Court of Appeal all concurred in upholding the judgment, and dismissed the appeal with costs. It was pressed upon the Court that if they upheld the verdict and judgment given against Isaac Gordon, no money-lender thereafter would be able to trade excepting in his own name, and that this would be most detrimental to the community. The court replied that this was not so, and that, in deciding the case, they decided nothing of the kind, for they pointed out that amongst money-lenders, as in other ranks of life, there are many given to fair dealing, and others given to the most rapacious tyranny known to mankind, and if a money-lender of the first kind honestly trades in an assumed name that is one case, and clearly not the case before the Court; but, if a money-lender of the second class secretes his own name, and uses another name for the express purpose of fraudulently inducing a man to trade with him, and to get that man into his clutches, that is altogether another and a different case. *Gordon vs. Street*, 15 Times Law Reports 445.