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Editorial Notes

The Editors

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EDITORIAL NOTES

THE SCHOOL OF LAW

A symposium on Administrative Law and Procedure was held at the Law School on February 16 and 17. Mr. Abe Feller, special assistant to the Attorney-General of the United States, and Mr. Henry Wolf Bikle, general counsel to the Pennsylvania Rail-

road Company, delivered addresses at the first session which was held on Friday evening. Mr. Ashley Sellers of the Department of Agriculture and Mr. Stanley S. Surrey of the Treasury Department delivered addresses Saturday morning and afternoon, respectively. All of these addresses appear in this issue of the Law Quarterly. Each of these addresses, except the first, was followed by discussion of the issues that were raised by the respective speakers. These discussions are also published in this issue of the Quarterly and will be found immediately following the address to which they relate.

COMMENT ON RECENT DECISIONS

BILLS AND NOTES—FICTITIOUS PAYEE—KNOWLEDGE OF AGENT IMPUTED TO PRINCIPAL—[Missouri].—Plaintiff's assignor, a corporation, authorized defendant bank to honor checks co-signed by one of its clerks and one of its officers. The clerk also had authority to negotiate checks and deliver them to payees. The clerk prepared and signed checks payable to persons to whom the corporation was not indebted, obtained the signature of an officer, and, having forged the indorsement of the payee, negotiated the checks. In due course these checks were honored by defendant and charged to the account of plaintiff's assignor. Upon discovery of the fraud and following an assignment of the claim, plaintiff brought an action to recover the amount of the checks. *Held*, the checks were payable to bearer under the Negotiable Instruments Law, and defendant was therefore not liable for their payment.¹

Section 9(3) of the Negotiable Instruments Law provides that an instrument is payable to bearer when it is payable to the order of a fictitious or non-existing person and such fact was known to the person making it so payable.² A payee whom the maker of a check does not intend to have an interest therein is a "fictitious payee" within the meaning of this section.³ Under these circumstances there can be no recovery against a bank honoring the check for failure to discover the forged indorsement, since no indorsement is required on a bearer instrument.

Where the check is issued by a corporation acting through agents, the requirement of the N. I. L. that such fiction in the instrument be known to "the person making it so payable" raises the question whether "the person" referred to is the corporation, as legal or ultimate drawer of the check, or the agent actually signing for that drawer, since their knowledge is not

1. *Globe Indemnity Co. v. First Nat'l Bank* (Mo. App. 1939) 133 S. W. (2d) 1066.

2. *R. S. Mo.* (1929) sec. 2638.

3. *Bigelow, Bills, Notes and Checks* (3d ed. 1928) 96-98, secs. 150-152.