

called upon to defend even that. If counsel will permit the department to say it, many lawyers lose sight of the relationship of the holder of negotiable paper to the maker and the payee. Let it be understood that the holder has nothing to do with any defences which the maker has against the payee, but only with defending his innocence of possession when it is SHOWN by the maker that he is not "innocent" in his possession. Then, having shown that "innocence" the law compels the maker to pay whatever defence short of forgery, the maker may have against the payee. The Michigan Act goes farther in its protection of the "innocent" holder than did the common law, as is seen by a careful perusal of the former.

Attention is hereby called to the term "burden" in Par. 2732 of the Act, which is liable to mislead the pleader, unless it is read together with the remainder of the paragraph. Notice! that before the BURDEN is cast on the holder, that the defective title alleged by the maker, i.e. defective as to the negotiant, not the holder, MUST BE SHOWN BY THE MAKER. This means only that he carries the BURDEN forever; the BURDEN then thrust on the holder is merely his answer to the evidence offered by the maker that the holder is not innocent, that he knew of the defect. If then the holder shows he did not know it, a motion for judgment is in order and must be granted. If the holder cannot disprove the evidence on that point offered by the maker, then is the latter permitted to offer against the holder the same defence he could have offered against the payee. In such a case the law governing the written contract dictates the evidence to be received in controversion of it but not till then. In short, the holder has nothing to do with the merits of the quarrel between the maker and the payee.

The statutes are so clear that no judicial authority is needed to be cited to the court in explanation of them. The rights of the parties are so clearly set out that if he follows the statutes, applying them to the documentary evidence at hand in this case, (particularly the letters of defendant above referred to), counsel will have no difficulty in having his motion for judgment granted on the pleadings, after successfully eliminating by like motion the irrelevant matter which the holder is bound to offer in support of the alleged Fraud he pretends created the Defect in negotiant's title upon which he must rely to defeat plaintiff's claim.

All of which is respectfully submitted.