

customer drew on the bank four cheques, amounting in all to £658, in payment of sheep then bought by him. To provide for the payment of the cheques, the customer asked the Meat Company's manager to see the bank, and to pay in £1,000 to the customer's credit to meet these particular cheques. The Meat company manager knew nothing of the overdraft. On the 6th of September he saw the bank, and explained his mission, but proposed as a matter of convenience to his company that he should deposit a store warrant for sheep, instead of cash, which the bank assented to. A warrant for 2,250 sheep, belonging to the customer, valued at £1,000, was sent to the bank on the same day, and the Meat Company supposed that the cheques would be paid on presentment. The banker appears to have understood that the warrant was to secure the old overdraft. Whatever the explanation might be, the fact was, that the cheques when presented were dishonoured. The next day the bank sent for the holders of the cheques, and they were then again presented and paid. At the trial, the real controversy was whether the warrant was deposited to meet the four cheques, or to cover the old overdraft. Another question was, whether the manager of the Meat Company had exceeded his authority in depositing the warrant instead of the cash. On the appeal in New Zealand the court agreed that evidence of special damage had been improperly admitted, and that the damages were excessive, but, instead of directing a new trial, they dismissed the action on the ground that the substitution of the warrant was unauthorized, and so there was no consideration for the promise by the bank to pay the cheques, and that the ratification by the customer of the unauthorized deposit was too late. Fourteen questions were submitted to the jury. The Court in England thought that the substitution of the warrant was of so little consequence that they were surprised that any real importance should have been attached to the variation from the customer's instructions. They thought that the answers of the jury contained all the elements necessary to constitute a contract between the bank and the customer, for which the latter could sue. The authority to the Meat Company manager to obtain for the customer as his principal, a promise by the bank to pay the cheques was proved. The promise by the bank to the Meat Company manager, as the agent of the customer, to pay the cheques was also proved. The deposit of the warrant as the consideration for the promise was also proved. What more was wanted the English Court queried? Was it consideration, or was it consideration moving from the customer? "A valuable consideration in the sense of the law may consist either in some right, interest, profit, or benefit, accruing to the one party, or some forbearance, detriment, loss, or responsibility given, suffered or undertaken by the other." This definition covers the case so far as consideration is concerned. The deposit of the warrant confirmed upon the bank some right, interest, profit, or benefit, which was all that was required by the first half of the definition to constitute a consideration for the bank's promise to the customer's agent to pay the cheques which were drawn and outstanding, the bank manager knew the circumstances under which the warrant was deposited, and was content to take it as the consideration for the promise. As to the objection that the consideration did not move from the customer. The doctrine that the consideration for a promise must move from the promisee is laid down in the text

books, and holds good in ordinary cases, where a promise is made to one man for the benefit of another. But the doctrine does not cover a case like the present, in which the consideration is supplied by an agent who obtains the promise for and on behalf of his principal. The banker was told that the Meat Company manager was instructed by the customer to pay the bank £1,000, and, if he had required it, the sum would have been paid. The banker chose, with his eyes open, to waive the cash and to take the warrant for what it was worth. The Court was not aware of any authority for saying, that in such circumstances the promisor could avoid performance of his promise to the third party, on the ground that the consideration did not move from him, and to extend the doctrine to such a case would be wholly unreasonable. The Court therefore could not say that there was no cause of action, but they thought that the trial judge was wrong in admitting evidence of the customer's loss of custom, and of credit from particular individuals. As to the damages awarded by the jury, they appeared exorbitant, considering that the cheques were honoured by the bank the morning following the afternoon on which they were dishonoured. They thought, however, that the plaintiff was entitled to substantial damages, and that £500 would be ample. They therefore directed that the appeal be allowed, and the judgment appealed from be reversed with costs, and that a new trial take place unless the plaintiff consent that the damages be reduced to £500, and that in such event the plaintiff have judgment for £500 and the costs of the action, the bank to pay the costs of the appeal in either event. *Fleming v. Bank of New Zealand*, 16 T. L. R. 469.

STOCK EXCHANGE NOTES.

Wednesday p.m., August 1st, 1900.

Prices at to-day's close show a decline from last week's quotations, and business on Exchange has come almost to a standstill. Several of the prominent brokers are out of town, and their clients, it would appear, are also away. The trading in War Eagle was the only break in the dullness of to-day's market. Quite a large block of this stock changed hands, the buying being, it is said, for a Western firm of brokers.

The Bank Clearings for July, as compared with the same month last year, show a heavy falling off. This decrease, far from being an evidence of the lessening of the general trade of the country, may be largely accounted for by the inactivity in stock exchange transactions. Of course, the fact that both the *Ville Marie* and *Jacques Cartier* banks are no longer clearing helps to account for the difference.

Prices in New York have been held in a narrow limit, and trading has been light. The railways show good comparative earnings, and are fairly strong in price. London still suffers from high money rates, and the announcement of a new War Loan will tend to keep money dear.

Call money in London is 3 1-4 to 3 1-2 per cent., and the rate in New York is 1 1-2 per cent. The local rate remains at 5 1-2 per cent.

The quotations for money at continental points are as follows:—