

WHEN THE WORDS AND FIGURES OF A CHEQUE DO NOT AGREE.

If Jones intended to give Brown a cheque for \$100 and, by mistake, writes one hundred dollars in words in the body of the cheque and places \$1.00 in figures in the corner, or, reverses the process and places \$100 in figures in the corner and omits the word "hundred" in the body of the cheque, it is a very elementary rule that in such a case the words and not the figures will govern, so that the first cheque would be good for \$100 and the second cheque for \$1.00.

In a case recently decided by the California Supreme Court, however, an entirely new point arose, as in that case, one Payne, a depositor of the Commercial National Bank of Los Angeles delivered to D. W. Russel a cheque in the following form:—

Los Angeles, Cal., May 7, 1914. No. 379
Commercial National Bank of Los Angeles:

Pay to the order of D. W. Russel \$500.00
Five and no/100 dollars D. C. Payne.

In this instance it is to be noted, there was a variance, and between the words in the cheque and the figures in the margin but, between the words and figures in the cheque itself, and two days after the cheque was dated it was presented to the Commercial Bank which refused to pay it.

Five or six days later the cheque was presented again, paid by the bank at \$500 and charged to Payne's account. Payne then sued the bank to recover money improperly paid, and got a verdict for \$495 (the amount paid by the bank less the smaller amount named in the cheque), which the Supreme Court of California upheld on appeal.

The decision of the court was largely on the ground that the cheque was void for uncertainty and that evidence could not be given showing the actual intent of the parties, and did not directly decide the more interesting point presented, namely, whether in this case where there is a discrepancy between the words and figures in the body of the cheque itself, the words or figures will govern, but in this connection the following quotation from the judgment of the court will repay a careful perusal:—

"Clearly there is no rule of construction which would warrant this cheque being read as one for \$500 rather than as one for only \$5.00. It might be argued that it must be construed as a cheque for only \$5.00. This argument might not be sustainable under the rule to the effect that, if there is a difference in the sum stated in the body of the cheque or bill and that stated in figures in the margin or superscription, the words written in the body must control without regard to the figures in the margin or superscription. The idea underlying this rule appears to be that such a marginal note or superscription is but a memorandum, constituting no part

of the body of the bill or cheque, and that what is clearly specified in the body must control. It is said with much force that this rule can have no application here for the reason that the figures '\$500.00' in this cheque do not constitute a marginal note or superscription, but are, equally with the written words and figures 'Five and no/100 dollars,' a part of the body of the cheque. But there is a general rule of construction recognized by some of the authorities to the effect that where both written words and figures are used in a contract to express the same number, and there is a discrepancy between the two, the written words must prevail over the figures. The theory is that a man is more apt to commit an error with his pen in writing a figure than in writing a word, and that the words ought to be deemed the better and more solemn statement, and therefore should govern."

In the above case, the California Supreme Court, while intimating that the words would govern instead of the figures does not directly decide the point, and in this connection it is interesting to compare a case decided by the Supreme Court of Nebraska in which a bank draft was issued in exactly the same form, and, a peculiar, coincidence, for exactly the same amount, namely, "\$500.00, Five and no/100 dollars." The party buying the draft paid the bank the full sum of \$500 for it, but when the draft was presented to the bank on which it was drawn the latter bank refused to pay more than the amount written in words, Five and no/100 dollars. The holder of the draft then got a sworn statement from an official of the issuing bank to the effect that the draft was intended for \$500.00 instead of \$5.00, but the bank on which the draft was drawn still refused to pay more than \$5.00 and before the holder of the draft could take any further proceedings the issuing bank failed.

The buyer of the draft then filed the claim with the receiver of the issuing bank for the \$500.00 and the Supreme Court of Nebraska gave judgment in his favor.

TRAFFIC RETURNS.

Canadian Pacific Railway

Year to date	1917	1918	1919	Increase
June 30.....	\$69,575,000	\$70,213,000	\$74,847,000	\$4,634,000
Week ending	1917	1918	1919	Increase
July 7.....	3,101,000	2,787,000	3,120,000	333,000
" 14.....	2,867,000	2,688,000	3,325,000	637,000

Grand Trunk Railway.

Year to date	1917	1918	1919	Increase
June 30.....	\$30,501,564	\$22,972,154	\$28,581,242	\$5,609,088
Week ending	1917	1918	1919	Increase
July 7.....	1,297,003	1,093,462	1,048,962	Dec 44,500
" 14.....	1,379,293	1,130,800	1,238,903	108,103

Canadian National Railways.

Year to date	1917	1918	1919	Increase
June 30.....		\$35,445,231	\$40,009,585	\$4,564,354
Week ending	1917	1918	1919	Increase
July 7.....		1,424,684	1,653,564	228,880
" 14.....		1,506,147	1,699,242	93,096