

If then, in consequence of a too early payment of the post-dated cheque, another cheque, subsequently drawn (not post-dated) and immediately presented, is dishonoured, has the drawer and customer any remedy against the bank? There appears to be no reported case in England of any action having been brought against a bank under such circumstances. In the text-books on banking, the case of *Da Silva v. Fuller* (*sup.*) is cited for the proposition that a banker is not justified in paying a post-dated cheque before its expressed date, but this case is not an authority as between banker and customer, and only relates to the risk the bankers run in possibly paying the wrong person. In the absence of authority, the question would have to be decided on principle should it arise in the English courts. Singularly enough, the question has arisen more than once in the Australasian courts, and contrary decisions have been arrived at. In Victoria and New Zealand a bank has been held liable in damages for dishonouring cheques in consequence of the customer's account being depleted by the premature payment of a post-dated cheque. In Queensland, under precisely similar circumstances, the bank was held not to be liable. The references to these cases are: *Hinchcliffe v. Ballarat Banking Company* (1870, 1 V.R.L. 229 (Victoria)); *Pollack v. Bank of New Zealand* (1901, 20 N.Z.R. 174 (New Zealand)); *Magill v. Bank of North Queensland* (1895, 6 Q.L.J. 262 (Queensland)).

The Bills of Exchange Acts then in force in Australasia were, for the present purpose, identical with the English Act of 1882. The Victorian case was decided before any codifying statute was in operation, the New Zealand and Queensland cases after codifying Acts had come into operation. The salient points in these cases were these: The Victorian and New Zealand courts relied on *Forster v. Mackreth* (*sup.*) and treated the post-dated cheque as a bill of exchange payable on the expressed date of the cheque, the New Zealand court holding that the codifying statute had made no difference in the law; the Queensland court held *Forster v. Mackreth* no longer applicable since the codifying statute, and also held that the true date of the post-dated cheque was the day of its issue and not the date expressed in it, with the result