

day defendants notified Mr. Burns, plaintiffs' then manager at Leamington and Wheatley, that Witherford had "skipped," and that no more of his cheques were to be paid by plaintiffs, and no more were paid. None, so far as appears, were presented after that date, although on that date and before notice one for \$85.25 and one for \$46.25 had been presented and paid.

Plaintiffs never notified defendants of how money was paid, and defendants always had their accounting direct with Witherford. The drafts were always paid, drawn by Witherford through the bank. There was a settlement between Witherford and the defendants on 18th August, 1904, and no question was raised by them of their not being liable for any of the money paid by plaintiffs on any cheque of Witherford. The comparatively small amount of business done after 18th August, 1904, up to 10th September, was precisely the same as before.

On 8th June, 1904, plaintiffs sent on Witherford's draft for \$1,002.50 on demand; on 15th June another for \$1,002.50 on demand; on 30th June another demand draft for \$2,205.50, but this was drawn by E. J. Witherford, per D. G. Scott, manager, upon defendants. On 13th July another at sight for \$2,205.50; on 26th July another at sight for \$1,503.75; on 30th July another at sight for \$501.25; on 16th August another at sight for \$902.25. All these were paid in due course, upon presentation.

On 31st August another draft was sent on by plaintiffs to defendants, drawn by E. J. Witherford at sight, for \$2,005. This was refused and protested, but paid by defendants on 8th September, and the costs of protest were also paid. At that time defendants were continuing Witherford as their agent.

Upon the whole evidence, I think the real agreement between plaintiffs and defendants was, that plaintiffs would be the custodians of money to be given by defendants to Witherford for the purpose of buying live and dressed hogs. It was a matter of convenience to defendants, and apparently of not very much profit to plaintiffs. . . . It never was, in my opinion, within the contemplation of defendants to ask the bank to keep an eye upon Witherford's expenditures. The meaning is that this money was to go to Witherford for the purpose of buying the hogs, and that the general places and persons where and from whom hogs were to be bought were farms and farmers.