

Court of Appeal of New Zealand held that the plaintiff was not entitled to recover, and even if he was there should be a new trial because evidence of special damage (*i.e.*, of loss of custom and credit from particular individuals) had been admitted at the trial, although none was alleged in the statement of claim. The Judicial Committee of the Privy Council (Lords Davey, Robertson, and Lindley and Sir H. De Villiers and Sir F. North) agreed with the Court below that there must be a new trial on the question of evidence, but were of opinion that on the main ground the plaintiff should recover, because the substitution of the store warrant for cash was not an excess of the agent's authority, but even if it was there was consideration for the Bank's promise, because the deposit of the store warrant conferred on the Bank some right, interest, profit, or benefit, within the legal meaning of "consideration," and, in the circumstances, it was estopped from saying that the consideration did not come from the plaintiff and a new trial was ordered unless plaintiff agreed to accept £500 damages in lieu of £2,000 assessed by the jury.

CONTRACT—CONSTRUCTION—PROMISE FAVOURABLY TO CONSIDER A PROPOSAL.

In *Montreal Gas Co. v. Vasey* (1900) A.C. 595, the respondent sought to establish as a binding contract a promise made by the appellants that if satisfied with the respondent as a customer they would "favourably consider" any application by him to renew a subsisting contract between them, at its expiration. Strange to say the Superior Court for Lower Canada came to the conclusion that this amounted to an agreement to renew the contract, if the respondent was a satisfactory customer. Oral evidence to explain the document was admitted at the trial; this the Judicial Committee (Lords Hobhouse, Macnaghten and Lindley and Sir R. Couch and Sir H. Strong) held was improper, and, upon the proper construction of the document, it was held not to constitute any promise to renew the contract in question, but a mere promise to deliberate on the question, with an assurance that the customer might expect favourable consideration.

LOST WILL—EVIDENCE—PRESUMPTION OF DESTRUCTION OF WILL BY TESTATOR—PRESUMPTION AGAINST FRAUD.

Allan v. Morrison (1900) A.C. 604, was an action to establish a lost will. A draft of the will was produced. It was admitted