

BANKING—CROSSED CHEQUE—"NOT NEGOTIABLE"—DEFECTIVE TITLE—PAYMENT—BANKER, LIABILITY OF—"CUSTOMER"—BILLS OF EXCHANGE ACT 1882 (45 & 46 VICT., c. 61) s. 82—(53 VICT., c. 33, ss. 80, 81. D).

The Great Western Ry. Co. v. London & County Banking Co. (1901) A.C. 41, is a much litigated case which has at last reached its quietus. It was reported (1899), 2 Q.B. 172 (noted ante vol. 35, p. 704), and (1900) 2 Q.B. 464 (noted ante vol. 36, p. 701), and the House of Lords by its judgment has again vindicated its right to exist as a judicial tribunal. The decisions of the courts below certainly placed a construction on the Bills of Exchange Act, which seemed tantamount to a repeal of some of its provisions, and though we have already twice given the facts yet, as the decisions below have been reversed it may be well to state them again:—Huggins, a tax collector, pretending that taxes were due by the plaintiff, the Great Western Railway Co., obtained a cheque from them for the amount pretended to be due. This cheque was crossed in blank by the Railway Co., and marked "not negotiable." Huggins who had been in the habit of getting cheques cashed by the defendant bank, but was in no other way a customer of it, took the cheque in question to the bank, and the bank, in good faith, paid him a part of the money in cash, and the balance was placed to the credit of a municipal body by Huggins' direction. The defendant bank then crossed the cheque to itself and sent it to its office in London and received payment through the clearing house. The railway then brought this action against the bank to recover the amount of the cheque, claiming that as the cheque was marked "not negotiable" the bank could acquire no better title than Huggins.

Bigham, J., who tried the action found that Huggins was a "customer" of the defendant bank, and that it had received payment of the cheque for him, and in good faith, and was protected by s. 82 of the Bills of Exchange Act (see 53 Vict., c. 33, ss. 80, 81. D.) The House of Lords (Lord Halsbury, L.C., and Lords Shand and Davey, Brampton and Lindley), however, have held that the collector was not a "customer" of the defendant bank within the meaning of the Act, and it was not protected by s. 82, and that Huggins, having no title to the cheque, could transfer no title to the defendant bank either to the cheque or the money, and that the bank was consequently liable to the plaintiffs for the amount of the cheque.