

was created as between Sir Richard Temple and the plaintiffs in favour of the former, so that any money which the latter might receive upon the promissory note would be held by them in trust for him. The defendant could have pleaded that any money recoverable on the note by the plaintiffs were recoverable by them merely as trustees for Sir Richard Temple, and that, under the circumstances disclosed by the correspondence, the relations between the father and son were such that it was impossible to suppose that the father wished to insist on payment of the note by the son. Fletcher Moulton and Farwell, L.J.J., were both of opinion that by the transaction between the plaintiffs and Sir Richard Temple the debt on the promissory note became extinct.

With this case we should compare *Graham v. Wickham*, 1863,^{1a} where a father voluntarily paid a debt due to a bank from his son, and afterwards died insolvent. Sir John Romilly, M.R., held that there was no debt from the son to the father's estate, and observed: "It is no more a debt due from the son to the father than if one stranger thought fit to pay the debt of another stranger, in which case he would not obtain a right of action against the person whose debt he pays off." But it would seem that the learned Master of the Rolls was inclined to treat the payment as an advancement.

These two cases raise several points of great interest, namely:—

1. If A offers money to B and at the same time states the terms upon which he offers it, and B accepts the money without saying anything about the terms upon which he accepts it, has B accepted the terms stated by A?

2. If A owes B money, and C, who is not bound to pay, is not A's agent and acts neither at the request of A nor with his knowledge—

(a) pays B, in cash, the whole amount due to him by A, and B accepts C's money in settlement of the amount so due, can B

(1a) 31 Beav. 478; 1 DeG. J. & S. 474.