

cerned, be made in pursuance of the new contract and not on the faith of the old relations at all, and consequently it would not give rise to the implied promise which otherwise would have been thereby created. In effect it is much the same as an exchange of accommodation notes and produces the same results—the one being the consideration for the other.

The element of suretyship was not present in any of the cases to which I have had access which were cited by the defendant.

I am much pleased to be able to decide this case as I have, because the defence is a dishonest one. The defendant has received the benefit of the plaintiff's payment, and now seeks to prevent his recovery. The defendant was not prejudiced by any delay which took place in the payment of the notes by the plaintiff. The defendant absconded immediately after he gave the plaintiff the note sued on. Several actions, including this one, were soon after commenced against him as an absconding debtor, and if the defence succeeds it will enure to the benefit of other attaching creditors alone.

The plaintiff will have judgment with interest and costs. If an appeal is asserted security must be given before I shall grant stay of execution.

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### NOVA SCOTIA.

#### REA v. LOCKETT.

COUNTY COURT, DISTRICT NO. 4.      JANUARY 28TH, 1908.

*Jurisdiction of the County Court—Cause of Action Arising, and Defendant Residing, without the District of the Court—Affidavit of Merits—Order 34, Rule 1 (2).*

This was an action brought by A. E. Rea and Company, Ltd., of Toronto, in the County Court for district No. 4, against John Lockett & Son of Bridgetown (a place not within district No. 4), to recover the price of goods sold and delivered. The goods were ordered either from an agent at Bridgetown or by letter sent from Bridgetown to the plaintiff direct. The defendant pleaded that the cause of action