

penalties, and also of expenses, none of which he is able to meet." Then comes the prayer, under various headings, your Honour, for relief. The statement of defence simply contains the admissions and denials I have mentioned as I have read through the statement of claim. It admits the first and second paragraphs. It denies that "they (defendants), or any or either of them, in or about the month of February, 1891, or at any other time, requested the plaintiff to act as their agent in applying in his own name for the pastoral run in the third paragraph of the said statement of claim mentioned, and subsequently, in bidding in his own name for the said run." "(3.) The defendants admit all the allegations in the fourth paragraph of the said statement of claim, save and except the words 'pursuant to the said request,' and the words 'at the request of the defendants;' but they deny that anything in the said paragraph mentioned was done by the plaintiff pursuant to or at the request of the defendants, or any or either of them. (4.) The defendants deny all and each and every of the allegations in the fifth paragraph of the said statement of claim, and especially the allegations therein that the plaintiff had no real interest in the transactions therein referred to, and that the plaintiff is or ever was a trustee or agent for the defendants, or any or either of them, in respect of the said run. (5.) The defendants admit that they paid the first half-yearly instalment of rent for the said run, but say that they paid the same for and on behalf of the plaintiff, and as his agents; and the defendants also admit that some stock, the property of the defendants—the National Mortgage and Agency Company of New Zealand (Limited)—were depastured upon the said run with the consent of the plaintiff, and by arrangement with him, for a short time after the plaintiff purchased the said run; but, save as herein admitted, they deny all the allegations in the sixth paragraph of the said statement of claim. (6.) The defendants deny that they or any or either of them ever at any time promised to undertake the whole responsibility for the said run, and to indemnify the plaintiff against liability in respect thereof. (7.) The defendants admit that the plaintiff was prosecuted for failing to destroy the rabbits on the said run, and was fined, as in the eighth paragraph of the said statement of claim is alleged, but they deny all the other allegations in the said eighth paragraph contained. (8.) The defendants deny all and singular the allegations in the ninth paragraph of the said statement of claim. (9.) The defendants admit all and singular the allegations contained in the several paragraphs of the said statement of claim numbered from ten to twenty-five, both inclusive, save and except the words 'requesting them to attend to the same,' in paragraph 10; the words 'and requested them to pay or attend to the same,' in paragraph 13, and the words 'and requested their instructions thereon, and the defendants directed him to decline to pay the same,' in paragraph 14, which words, and the allegations contained therein, the defendants deny." Your Honour will therefore see that the question that is open for decision by the Court is really one of agency by Scott for the defendants, or one of them. That is the whole defence that has been set up; and the question really narrows itself, it seems to me, down to the narrow question, Was Scott the agent of the defendants, or any of them, in the transaction which is referred to in the statement of claim, the circumstances regarding which I am about to state? There is no other defence raised as to the promise of indemnity. Perhaps some of these other defences may be raised on legal grounds when the evidence is concluded. We, however, say, your Honour, that the rule is that an agent is entitled to indemnity, and that the request to act as agent carries with it this indemnity so long as the person requested acts in the ordinary course of business. The law is summarised in "Smith's Leading Cases," on page 164 (9th edition). *Lampleigh v. Brathwait*, perhaps, puts it in fewer words. In his "Principal and Agent" or "Story on Agency," this rule is laid down as the duty of the principal: "A principal is bound to indemnify his agent against the natural consequences of all acts done by him in pursuance of the authority conferred upon him." In this case we have conclusive evidence of what was done; but all that is necessary is admitted, and the real question is whether Scott acted as the agent of these parties or not. If the Court comes to the conclusion that he was their agent I submit we are entitled to the relief sought, and I submit we have not come too soon, because we are entitled to come to the Court for indemnity so soon as we are threatened with anything, and the other side will not help the plaintiff. That is laid down very clearly by Justice Kekewich in "*Hobbe against Wyatt*," 36 Chan. Div. 256, where he said, "I think a man who accepts a liability is entitled to relief from that liability." Of course that was the case of an executor; but the same law will apply. And now I will state what are the circumstances that we will prove in this case, your Honour. As has been stated and admitted, your Honour, the defendants—the National Mortgage Company—carry on the business of stock and station agents, and have to do with runs—are general merchants, and a lending company, &c. I believe that as such they have sheep and cattle of their own. Mr. Ritchie is, I understand, the general manager of the company, and Mr. Henderson was the manager in Dunedin, acting under Mr. Ritchie—practically, acting as a sort of assistant manager of the company. Now, they have had to do with runs, and early in January last year Mr. Henderson sent for Mr. Scott, and asked him if he could use his name in bidding for a run. He said that it was a small matter, and that if the run was not bought Scott was to get a guinea, and that if the run was bought he was to get £10 or £20 for the use of his name: he was to be the agent, and they were to pay all the costs, rents, and everything else. There was not much said about the matter. Mr. Henderson simply informed Scott that they wanted his name because they had two clients bidding, and they did not want them to know who interfered in the matter. Scott assented to that, and, I believe, sent a telegram that their agent at Timaru was to act for him; but that was all, so far as that run was concerned: it was not bought by them, and he got his guinea. After this transaction had been concluded, about the end of February last year, Mr. Henderson sent for Mr. Scott again, and asked him again for the use of his name, and he at once assented to the use of his name. He did not know anything about the property for which his name was to be used; and I believe that to the present day he has not only never seen the run, but he does not even know the locality of this run referred to—Run 93a. He has certainly never seen it. He says that he simply asked Henderson to be sure not