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Principal and Agent-Principal's Liability for Unauthorized Acts of Agent

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PRINCIPAL AND AGENT—PRINCIPAL'S LIABILITY FOR UNAUTHORIZED ACTS OF AGENT—Plaintiff recovered a judgment on a note and a foreclosure of a mortgage, and defendant appealed. Defendant executed the note and mortgage to defendant and delivered them to one E., the agent of the bank. E had authority to secure and conduct business with foreigners for the bank. The occasion for the execution of the note and mortgage was the promise of E to procure a bond which would enable defendant to release his brother who was held by immigration authorities. E had no authority to do this. E later introduced defendant to the officers of the plaintiff bank, who promised to advance him the money on good security. The mortgage and note were executed, and a check was given to E to give to defendant. E absconded with the money. HELD: judgment reversed. The agency did not end when defendant was introduced to the officers of the bank, and E was acting in the course of his employment when he absconded. *Kostoff et ux. v. Meyer-Kiser Bank*, Supreme Court of Indiana, August 13, 1929, 167 N. E. 527.

A bank is liable for acts of the agent when acting in the apparent scope of his authority even though the acts are fraudulent; and where a principal authorizes an act by his agent, he is bound by the acts and representations of the agent while doing that act. *Day v. Dages*, 17 Ind. App. 228; *First National Bank v. Joseff*, 57 Ind. App. 320; *Wolfe v. Pugh*, 101 Ind. 293.

If the agent has ostensible authority to do an act, he is presumed to have such authority unless the contrary is shown and if it is in the apparent course of his employment. *Hawkins v. Fourth National Bank*, 150 Ind. 117.

Where a bank holds out even a minor official as being intrusted with certain powers and duties, his acts within the scope of such apparent authority are binding on the bank. *Fort Worth etc. Bank v. Martin*, 8 S. W. 507; *Munn v. Burch*, 25 Ill. 35; 7 C. J. 559.

A bank can not take the benefits of an agency and not be bound by the agent's acts and representations in securing the benefits. *Munn v. Burch, supra.*

The case is undoubtedly sound and in accord with the modern tendency of courts to consider that every agency is so far general that it must cover, not only the precise thing to be done, but whatever usually and rationally belongs to the doing of it.

R. C. H.