

There was a similar clause in the Lower Canada Code—simply to make the common law of England apply upon a point where it is not inconsistent with the provisions of the Bill. I did not think last session, when the Act was passed, that that clause was necessary, and others were of the same opinion; but it seems to have caused a certain amount of doubt and uneasiness that there is no system of law to be referred to in the event of a dispute as to the construction of the statute, and it is considered important that this could be got in.

*Hon. Mr. Power*—I presume there will be no objection to the reading of the Bill, but I do not suppose by reading a Bill the second time the House commits itself to accepting the proposed amendment to section 24, and I take the opportunity now to call the attention of the hon. leader of the House to the fact that this amendment to section 24 is, it strikes me, inconsistent with the portion of section 24 which remains in force. Section 24 of the Act begins as follows:—

“Subject to the provisions of this Act, where a signature on a bill is forged or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorized signature is wholly inoperative,” &c.

Now, you propose by the amendment before the House to practically repeal that, because the signature is made operative to a certain extent.

*Hon. Mr. Abbott*—No; my hon. friend is mistaken. That is not the intention at all.

*Hon. Mr. Power*—If there were no drawers' names on the bill or acceptor's name on the bill it would not be good for anything, from the fact that a number of gentlemen have put their names on paper which was not signed or accepted. It would not make them liable, but you propose by this legislation to make all the endorsers liable.

*Hon. Mr. Abbott*—No. Under the existing law, if a bill in which the earlier signature is forged came into the hands of a *bond fide* holder, and on which three or four of the names were genuine, he would have an action against the endorser. It has been held that in the case of a cheque, the person who pays it does not become the holder, and therefore

he would have a remedy against the last endorser who held the cheque. The object is to give the same action against the whole of the endorsers that the holder in due course would have—to give to the bank the same power as a holder in due course.

*Hon. Mr. Kaulbach*—Would it be against the bearer who transfers? Would you have an action against the bearer of the note—against the drawee?

*Hon. Mr. Abbott*—The drawee, if he pays a cheque under this Bill as it stands without being amended, would have a remedy against the previous *bond fide* endorsers, whose signatures were prior to that of the forged signatures; whereas, a person who held a bill as a holder in due course would have a remedy against all those endorsers; and it is simply giving the bank the same remedy as the holder in due course. The subsequent clause in the Bill simply makes the common law of England a universal referee in case of our failure to comprehend any of the clauses of the statutes.

*Hon. Mr. Scott*—There is a little confusion in the words “or to the bearer thereof.” I quite agree with giving to the payee the rights of any of the endorsers subsequent to the forgery, but the words “or to the bearer thereof” in the second line make the proposition somewhat confusing. If he pays it to “the bearer thereof,” it does not follow that he has the right to charge the maker of the cheque.

*Hon. Mr. Abbott*—If the cheque is endorsed in blank it may be presented by anybody, but the liability of the endorser still remains; but if a cheque is presented in blank by a person who is not an endorser, and he gets the money, the bank, as the law stands, would have a right of remedy against that man to get back the money. What we intend to do is to give to the bank, in addition to its remedy against the bearer, its remedy against the endorsers, who are legally liable under the Act to the *bond fide* holder.

The motion was agreed to, and the Bill was read the second time.