

understand it as a rule of business not to pay old cheques without enquiry. The drawer's account may be overdrawn, or he may have ceased to have an account with the bank, or might have become insolvent in the interval.

REASONABLE TIME.—Sub-sec. 2 of s. 166 is as follows:—"In determining what is a reasonable time, within this section, regard shall be had to the nature of the instrument, the usage of trade and of banks and the facts of the particular case."

This clause considerably relaxed the stringency of the old common law rule and became necessary in view of the increase in the circulation of cheques in place of cash or bank notes. The old cases laid down the following principles, and in so far as they embody the present usages of trade and banks they will still control the meaning of the words "reasonable time" in the statutory definition:

(1) If a person who receives a cheque, and the banker on whom it is drawn are in the same place, the cheque must in the absence of special circumstances be presented for payment on the day after it is received, *Alexander v. Burchfield* (1842), 7 M. & Gr. 1001.

(2) If the person who receives a cheque and the banker on whom it is drawn are in different places, the cheque must in the absence of special circumstances be forwarded for presentment on the day after it is received, and the agent to whom it is forwarded must in like manner present it or forward it on the day after he receives it. *Hare v. Henty* (1861), 20 L.J.P.C. 302, *Prideaux v. Criddle* (1869), L.R. 4 Q.B. 455, *Heywood v. Pickering* (1874), L.R. 9 Q.B. 428.

(3) In computing time, non-business days must be excluded, and when a cheque is crossed, any delay caused by presenting the cheque pursuant to the crossing is probably excused. As to unreasonable delay in presentment of cheques in view of the evidence as to the usage of trade, see *Banque Jacques-Cartier v. Limoulu*, *supra*, where it was held that a cheque issued on the 11th of the month and presented on the 15th was not presented within a reasonable time; see also *Legaré v. Arcand* (1895), 9 Que. S.C. 122, where one day's delay was held to be unreasonable in view of the fact that there had been a run on the bank and that suspension was likely to follow.

Province of Nova Scotia.

SUPREME COURT.

Russell and Longley, JJ., and Ritchie, E.J.] [40 D.L.R. 90.
HERDMAN v. MARITIME COAL, RAILWAY AND POWER CO., LTD.
Negligence—Railway track—Habitual user by public—Extra engine on dark night without lights.

A railway company which permits the public to habitually use its track, as a short cut, knowing it to be so used, is guilty of negligence, if without giving the public warning it runs an engine,