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J. R. STRATTON, M.P.P.

VICE-PRESIDENTS:

D. W. KARN, Esq. C. KLOEPFER, M.P.

The Company is chartered to act as Executor, Administrator, Guardian, Trustee, Assignee, Committee of Lunatic, Receiver and General Fiduciary Agent for investment of moneys, Management of Estates, Issuing and Countersigning Bonds, etc.

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59 Government St., VICTORIA, B.C.

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ALEXIS MARTIN.

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## DECISIONS IN COMMERCIAL LAW

RE FARMERS' LOAN AND SAVINGS CO.—

Judgment on appeal of certain debenture-holders from the ruling of the Master-in-Ordinary that the holders of the company's debentures have no priority of claim upon the assets of the company in liquidation over the other creditors of the company. The appellants contended that they had a lien or charge upon the mortgages and assets of the company, and had advanced their money upon the faith of having such a charge, each instrument being headed "Land Mortgage Debenture," and the statutes and by-laws of the company authorizing such a charge. Held, that the company was invested with the power to borrow money for its purposes, and to give security upon its assets for the payment of the money borrowed, and such security might be given in the form of a mortgage or pledge of, or charge on, the whole or any part of the assets of the company, whether existing when the security was given or subsequently acquired, or in the nature of what is known as a "floating security" upon the assets, present and future. *Murray v. Scott*, 9 App. Cas., 519, followed. And if the members could create such a charge, there is no principle of law which would prevent them from conferring on the trustees or directors the authority to create such a charge, and that they may do so is expressly provided by section 5 of the Building Societies Act, under which the company was incorporated. It was argued that the effect of section 38 was to give a statutory charge on the capital of the company to persons from whom it borrowed money, either by receiving it on deposit or otherwise, for the money lent, and that this statutory charge had priority over any charge or security created or given by the company; but the court does not agree with this view, holding rather that no lien or charge upon the capital of the company is given by section 38 to persons lending money, but that its purpose was merely to designate the capital as the fund out of which the debt due to the lender was to be paid, as in the case of a married woman having separate estate, and possibly to prevent a member of the company withdrawing his investment to the prejudice of the lender. Held, also, that the company, having power to create a charge, had by their land mortgage debentures created a charge on the property of the company. Appeal allowed and order made declaring that these debentures were a charge upon the capital and assets of the company, invested in mortgages on approved real estate situate in the Dominion of Canada at the date of the winding-up order. The debenture holders to add their costs to their claims. The liquidator to have his costs out of the estate. The depositors to bear their own costs.

THE Richelieu and Ontario Navigation Company, which holds its annual meeting next week, will apply next session for an act to increase its capital stock, to own and operate hotels, to enlarge the company's powers and to acquire and hold real estate, and for other purposes.

## JOHN MACKAY

Public Accountant, Auditor, Receiver  
and Trustee

Bank of Commerce Bldg., Toronto  
Cable Address: CAPITAL. Tel. No. 2739.

THE INSOLVENCY AND LIQUIDATION  
DEPARTMENT OF THE

Western Loan & Trust Company, Limited,  
IS OPERATED BY

## W. Barclay Stephens

Manager of the Company.

Under the laws of the Province of Quebec the Company cannot be appointed directly to trusts, such as assignees, etc. Therefore, Mr. Stephens will act on behalf of the Company in all such cases, the Company assuming all responsibility and reliability in regard to any trusts which may be placed in his hands.

Address communications to

W. BARCLAY STEPHENS,

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