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The Monetary Times

VOLUME XXXI.

was complete with the Issue of June 24th last. Bound volumes conveniently indexed will soon be ready.

DECISIONS IN COMMERCIAL LAW.

A STOCKHOLDER'S RIGHT OF INSPECTION.—

An application by Henry Steinway to the Supreme Court for a mandamus to compel the officers and directors of Steinway & Sons, in which he is a shareholder, to permit him to examine and inspect certain books and papers other than the transfer books of the corporation, was denied at Special Term, but a reversal of the order has been directed by the First Appellate Division, N.Y. The Judge at Special Term concluded that the examination was desired solely for annoying and oppressive purposes. It was shown in the application that there had been great diminution in the amount of dividends declared by the corporation, which was but 5 per cent. in 1896, while previously, since 1883 with but one exception, the dividends had never been less than 10 per cent., and they had at times been as high as 18 or 20 per cent. The court holds, in an opinion by Justice Patterson, that the Supreme Court has the power to issue the writ as part of its general jurisdiction as successor of the Supreme Court of the colony of New York, whose jurisdiction was substantially that of the King's Bench in England. A stockholder, it was held, has a right to inspect the books and papers of a corporation where good and sufficient reason exists for the inspection, and the information required cannot be obtained in any other way. Justices O'Brien and McLaughlin concur with Justice Patterson, while Justice Ingraham and Presiding Justice Van Brunt dissent, holding that the Legislature having provided a method by which a stockholder can acquire such information, the right of the stockholder to require the corporation to allow him to examine the books is confined to the remedy provided by statute.

"PAYMENT IN FULL."

STOCK V. BRIGANTINE TRANSPORTATION CO. Nothing is more common in a dispute between buyer and seller after the transaction than that the former should tender a cheque as "payment in full." How far the acceptance of such a cheque binds the seller must depend upon the circumstances of the case. In the cause above cited which was determined by the Supreme Court of New York State, the facts were these: After a dispute had arisen in regard to items of freight upon goods sold, the debtor mailed the creditor a cheque for a sum of money, accompanied by this statement: "In settlement of the accompanying bills and statement, which kindly receipt and return promptly." Five days later the creditor answered the letter, denied that the payment was in full settlement of the bills, said he had credited the cheque as a part payment, asked for an itemized statement of items deducted (including verified freight bills paid by the debtor) in order that he might check them over, returned the bills sent and demanded payment in full. The debtor never answered this letter. Upon this state of facts the court held that there had been no accord and satisfaction, as the debtor claimed, and that he was not released from the remainder of his debt: that as no mutually satisfactory final settlement had ever been made between the parties, the creditor was entitled to infer from the debtor's failure to reply to his letter that the latter acquiesced in the action of the creditor in treating the cheque merely as a part payment. The conclusion of the court would, upon authority, have been different if the debtor had protested against the creditor's decision to accept the cheque merely as part payment, instead of appearing by his silence to acquiesce in that decision.

JOHN MACKAY

Public Accountant, Auditor, Receiver and Trustee

Bank of Commerce Bldg., Toronto
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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.

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