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WAREHOUSE RECEIPTS.

Two cases of considerable importance, bearing upon the law in relation to warehouse receipts, were decided at the sitting of the Court of Queen's Bench at Montreal, Jan. 29. In one, in which *Robertson et al.* were appellants and *Lajoie*, Assignee, was respondent, the action was brought by the respondent on warehouse receipts signed by the appellants in the following form :—

"Received from Ritchie, Gregg, Gillespie & Co., on storage, in yard Grey Nun street, the following merchandize, viz. :—

"(300) Three hundred tons No. 1 Clyde Pig Iron.

Storage free till opening of navigation.

"Deliverable only on the surrender of this receipt, properly endorsed.

"Montreal, 5th March, 1873.

"(Signed)

"Thomas Robertson & Co."

Robertson & Co. had sold a quantity of iron to Ritchie, Gregg, Gillespie & Co., and got notes for it. The iron, however, by the desire of Ritchie & Co., remained in the possession of the vendors, who gave receipts for it in the above form. These receipts were endorsed by Ritchie & Co. to Nelson Davis, who was at the time making large advances to Ritchie & Co. Davis subsequently made a demand on Robertson & Co. for the iron, but the latter, having become alarmed at the financial condition of Ritchie & Co., refused to deliver. Davis thereupon brought an action against Robertson & Co., praying that they be ordered to deliver over the iron to him, and in default to pay the value, $21,856. Davis having become insolvent, the suit was continued by his Assignee, Lajoie, the respondent.

The Court of first instance, after contestation, rendered judgment in accordance with the conclusions, ordering Robertson & Co. to deliver over the iron, or in default to pay the amount mentioned. It was from this decision that the appeal was brought by Robertson & Co. Their pretensions were substantially as follows :—

1st. That they had not been paid for the iron, and that, without payment, the sale was not complete.

2nd. That not being warehousemen by calling, the receipts given by them had no legal value as warehouse receipts, and the endorsement of them, so long as the iron was not paid for, conveyed no title.

3rd. That Davis was aware that Ritchie & Co. had not paid for the iron, and were unable to pay for it, and that the transaction between Davis and Ritchie & Co., was contrived with fraudulent intent. (This plea was unanimously held to be not proved.)

The judgment of the Court of Queen's Bench sitting in appeal, which was rendered by Ramsay, J., held:

1st. That the document recited above was a warehouse receipt, and not a mere delivery order.

2nd. That the parties signing such receipt, who were unpaid vendors of the iron, could not pretend, against a holder of such receipt in good faith, that it was not a warehouse receipt inasmuch as they were not warehousemen.

3rd. That such warehouse receipt might be transferred by endorsement as collateral security for a debt contracted at the time in good faith, the pledgee Davis having no notice that the pledgors were not authorized to pledge, the proof of such knowledge being on the parties signing the receipt.

4th. That an obligation contracted at the time may be made to cover future advances, but not past indebtedness.

Two of the Judges—Chief Justice Dorion and Mr. Justice Cross—differed from the majority, but the grounds of dissent did not imply that they took a different view of the law. They would have reversed the judgment inasmuch as the declaration averred that the warehouse receipts were transferred for advances, without setting forth that it was for advances *subsequent* to the transfer of the receipts. The majority of the Court concurred in the opinion that the declaration was defective in this respect, but held that the defect had been covered, the defendants not having demurred on this ground though the declaration had been specially demurred to, and having allowed the the plaintiff to prove the fact that advances to a much greater amount than the value of the iron mentioned in the receipts had been made by Davis to Ritchie & Co. subsequent to the transfer of the receipts to him. The appeal was therefore dismissed. As we understand