

Legal Decisions Affecting Bankers

EDITORIAL NOTES

Assignments under Sec. 74.—We had intended reporting at length in this number the case of the *Banque d' Hochelaga v. Merchants Bank of Canada*, which came up in the Court of Queen's Bench, Manitoba. The case has been a good deal discussed, as being the first important judgment in respect to security under Sec. 74. We find, however, that the question really involved was the right of the Merchants Bank to retain certain goods of which they had taken possession by virtue of an assignment, and we learn that the provisions of the Bank Act in such matters did not necessarily come into the case at all. The assignment under which the Merchants Bank claimed was not authorized by the Bank Act, but that held by the Hochelaga Bank was equally defective, in the former case having been taken in substitution for previous assignments, and affecting a different lot of goods; while in the latter the security was taken for a pre-existing debt. The facts were briefly as follows: Prior to the 27th March, the Merchants Bank held certain notes of one Allen, secured by certain assignments of goods in his possession, which goods had been partially removed and other goods substituted without the knowledge of the bank. On that date they amalgamated the notes into two, and took a new assignment of goods to secure the amalgamated debt. These goods were set apart by Allen in the presence and with the approval of the manager of the Merchants Bank, and marked with their mark.

On the 1st May, Allen gave the Hochelaga Bank an assignment of goods to secure a pre-existing debt. There is no reason to believe that he had enough on hand to represent the quantity assigned to the two banks.

Between March 27th and June 21st all the goods on hand at the former date had been sold, and new goods substituted, without the consent of the Merchants Bank, but the substituted goods were marked with their mark.

On the 21st June, because of a visit of the officers of the