

BRYCE, McMURRICH & Co.,

Stock continues WELL ASSORTED, having received lately ADDITIONAL SHIPMENTS of

STAPLES, HABERDASHERY, &c.,

AMERICAN TICKS,

ALSO,

DENIMS,

DRILLS.

COTTON YARN, White and Colored.
CARPET WARP, " "

WOOL AND HOP SACKING,

GRAIN BAGS, &c., &c.

34 Yonge Street, Toronto.

OFFICE—63 WEST REGENT STREET,

GLASGOW, SCOTLAND.

BRYCE, McMURRICH & Co.

Toronto, 29th June, 1870.

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THE
Monetary and Commercial Times.

WITH WHICH HAS BEEN INCORPORATED

THE MONTREAL TRADE REVIEW.

TORONTO, CAN., FRIDAY, JULY 8, 1870.

WAREHOUSE RECEIPTS.

We had occasion to consider, in a previous number of this paper, (page 404) the effect of the legal interpretation put upon warehouse receipts by our higher courts, and the great danger involved in the use of such receipts. A late case, *Todd vs. The Liverpool, London and Globe Insurance Company*, which came up for decision before our court of Error and Appeal, suggests further comment on the subject, and we ask the attention of all interested, to the state of the law respecting one branch of it. One Todd obtained advances from an agent of one of the local banks, to the amount of about \$3,000 on the security of warehouse receipts, signed by his own clerk, in his favor, which receipts Todd afterwards transferred, by endorsement to the bank. Had the receipts been signed by Todd himself, and not by his clerk (in the name of the clerk) it was apparently admitted, that under 24 Vic. c. 23, sec. 1, they would have been good. But it was contended that having been signed by the clerk in his own name, and the clerk not being at the time the warehouseman, the receipts were void, so that the bank acquired no insurable interest in the property covered by the receipts, which property was subsequently destroyed by fire at Seaforth. The Court of Common Pleas decided that the signature by the clerk in his own name was

sufficient under the statute. From that decision the defendants appealed, and after two arguments before the Court of Error and Appeal, the judgment of the court below was reversed by a majority of one. The Chancellor, Vice-Chancellor Mowat, and Judge Wilson, delivered judgments in favor of the plaintiffs, and Mr. President Draper, Judges Morrison and Gwynne, and Vice-Chancellor Strong, gave judgments in favor of the defendants.

The efforts of the Legislature to facilitate business transactions by means of warehouse receipts, and by allowing a warehouseman to give receipts in his own favor, has opened the door to vast amount of fraud; and unless the man at the head of a warehouse, is strictly honest, he may, as the event in only too many cases has shewn, resort to an infinite deal of trickery. He may have five thousand bushels of wheat, and he may sit down and write receipts for fifty thousand in his own favor, and obtain advances on such receipts. Todd appears to have raised money on receipts, when he had a larger number of receipts out than the quantity of grain he had on hand justified. The policies of insurance on the supposed grain were assigned along with the receipts to the bank, and after the fire the insurance company resisted the claim on the ground that the warehouse receipts held by the bank were invalid, being signed by Todd's clerk instead of by Todd himself; that the property mentioned in the receipts, if they were void, was still Todd's property, he having transferred all the grain he had to another, the bank therefore had no interest in the policies; and that an elevator had been erected on the premises, without notice, contrary to the condition against alterations, which increased the risk, and required additional premium. The questions at issue ultimately resolved themselves, as we have seen, into a dry legal contest; of course, the bank is not over well pleased at suffering defeat, on what might be termed a technicality; but, on the other hand, an insurance company has just as little relish for being imposed upon, as individuals who are blessed with what corporations are said to lack, viz., souls. In this Todd case there was undoubtedly great frauds committed; though the bank, of course, is not chargeable with or responsible for them, save in so far as it stands in the shoes of its dishonest customer, and we cannot say that an insurance company is not justified in fighting over a technicality for the sake of a concealed principle. If Todd were the real plaintiff in the case, no question would arise as to the propriety and justice of the insurance company doing its utmost and relying upon every available ground to defeat a claim he might make against it, in

respect of these policies. The bank acted in good faith, and though not responsible for Todd's frauds, it certainly is unfortunate enough to be affected by them. Zeal to take advantage of technicalities is certainly not the characteristic of first class insurance companies, and where an undue advantage is seized, by means of a technical quibble for the mere sake of defeating a just claim, the severest censure is deserved. But it must be born in mind that there are occasions when a technical defence is the only available weapon against fraud and imposition.

At the trial of this Todd case, Judge Hagarty, in charging the Jury, said:—"Whatever may be said against insurance companies, it is a well-known fact, that if there is any unfortunate body of men in the world more the victims of every species of fraud than another, it is an insurance company. The reason I make the remark is, that I constantly hear it said that insurance companies are in the habit of defending themselves. But if they did not, and paid the insurance money in every case without enquiry into its merits, they would only be encouraging this species of fraud. Certain companies never make a suit nor defend, if nothing is suspected to be wrong." So that before jumping to a conclusion in many of the cases against insurance companies, it is advisable to know what is behind their technical defences, and to make due allowance for the circumstances in which the companies oftentimes find themselves placed by swindlers and incendiaries.

However opinions may differ as to the justice or injustice of actions or defences, there can be no question now as to the advisability and necessity of immediate legislation to check the frauds which the extreme latitude permitted in the giving of warehouse receipts has engendered. They have been given with recklessness, and accepted with the grossest carelessness in the hurry of business. It is high time that our grain-dealers took measures to protect themselves; for certain it is, that banks and insurance companies will and must for the future cease to regard with implicit faith documents which have hitherto passed without question, or cease altogether to receive them. The latter alternative would be fraught with vast injury to the country.

ROYAL CANADIAN BANK.

It cannot fail to be satisfactory to the shareholders of this institution to notice, from the Directors' report, that, despite the lamentable state of its affairs one year ago, a profit has been made within the year of over one hundred thousand dollars. No doubt this was partly derived from forfeiture