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WEST REGENT STREET, GLASGOW, SCOTLAND.

BRYCE, McMURRICH & CO.

Toronto, March 22, 1871.

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THE

Monetary and Commercial Times.

WITH WHICH HAS BEEN INCORPORATED

THE MONTREAL TRADE REVIEW.

TORONTO, CAN., FRIDAY, MAY 5, 1871.

WAREHOUSE RECEIPTS.

Some time ago an Act was passed, authorizing bankers to make advances upon warehouse receipts and bills of lading. At various times since then, the law has been amended, and, on the whole, it has been found good in practice. Occasions, however, arose in which the technicalities which encumbered the Acts regulating this custom were taken unfair advantage of in suits. Justice being thus defeated, a prejudice arose against these operations, and, as usual, the honest trader suffered from the necessity of bankers guarding themselves systematically against a proved source of risk from the dishonorable craft of a few. If any part of the Statute Book, more than another, should be free from the jargon of legal tautology, it should be in such Acts as bear upon commercial transactions. In dealing with property in land or houses, there seldom arises any necessity for haste, and professional aid may be equally desired by both parties to the bargain. In the operations of trade, however, as now conducted, quickness of dispatch is essential, and it becomes, therefore, a prime necessity that the laws relating thereto should be as simple, clear, and definite as language can make them. In this particular instance,

seeing how constant and how vast is the service rendered by banks to traders by advances so secured, the law should aim at rendering such security to the utmost extent free from the risks of either technical defects in the instrument itself, or the chances of adverse action by either the maker of it or his creditors.

While the bank charters were being amended, the opportunity was embraced of revising this portion of the law, so closely affecting banking interests. The whole subject was carefully reviewed, consideration was given to the suggestions of bankers and others, and the law now approximates much nearer to the conditions we have indicated as requisite for the needs of commerce. Being of such importance to know what the law is, we give it as passed, and, for clearness, arrange it under various heads, as follows:

1. *Who can give a warehouse receipt or bill of lading?*

The Act reads—"The bank may acquire and hold any cove receipt, or any receipt by a cove-keeper, or by the keeper of any wharf, yard, harbor, or other place, any bill of lading, any specification of timber, or any receipt given for cereal grains or merchandise;" and it further provides that the owner may give such receipt, providing he comes under one of these descriptions: "Cove-keeper, keeper of a wharf, yard, harbor, or other place; warehouseman, miller, wharfinger, master of a vessel, or carrier, curer or packer of pork, or dealer in wool, &c., and such receipt, &c., shall be as valid as if the person making such receipt and the owner were not one and the same person; and in the case of the curing and packing of pork, a receipt for hogs shall apply to the pork made from such hogs."

2. *How can a receipt or bill of lading be used as security?*

There are various points here which require careful attention. Such a document may be given—(a) "As collateral security for the due payment of any bill of exchange or note discounted by such bank (i.e., the bank holding the receipt, &c.) in the regular course of its banking business." (b) "As collateral security for any debt which may become due to the bank under any credit opened or liability incurred by the bank for or on behalf of the holder or owner of such bill of lading, specification, or receipt." (c) "As collateral security for any other debt to become due to the bank"—that is, to give what is known as a "general lien."

3. *What then is the security that a warehouse receipt, &c., gives?*

It gives to the bank absolute property in the goods specified in the receipt, &c., so that they cannot be seized under execution, or

be treated as part of the estate in bankruptcy. This feature is so important that we give the exact words of the Act. "All advances made on the security of any bill of lading, specification, receipt, acknowledgment or certificate, shall give and be held to give to the bank making such advances a claim for the repayment of such advances, on the grain, goods, wares or merchandise, therein mentioned, prior to and by preference over the claim of any unpaid vendor, any law, usage or custom to the contrary notwithstanding."

4. *What are the penalties for giving false receipts, or making away with property specified therein, and who are liable?*

(d) The act decrees that if any such person as before named, or any clerk, or person in his employ, knowingly and wilfully gives to any person any writing purporting to be a receipt for or acknowledgment of any grain, &c., &c., as having been by him or his employer received before the goods or property named therein have been so received by him or his employer with intent to mislead, &c., any person or persons whomsoever, he shall be guilty of misdemeanor. (e) Further, if any person knowingly accepts, or transmits, or uses any such false receipts, he shall be guilty of misdemeanour. (f) Wilfully alienating or parting with or not delivering to the holder or indorsee of any such receipt of the goods named therein, is also declared to be a misdemeanor. (g) The act provides that in the case of any such false receipt being given in the name of any firm, the person by whom such thing is actually done, and any person who connives at the doing thereof, shall be deemed guilty of the offence and not any other person."

5. *When must debt be contracted which may be secured by a receipt, &c.*

The act declares that such receipts, &c., may only be used to secure debts "neglected or contracted at the time of the acquisition of such instrument by the bank," or on the understanding that for any advance such receipt, &c., would be handed over, the security however, not being effected by the renewal of any bill, note or debt.

These are the main provisions of this new Banking Act relating to the matter, and they are, doubtless, a considerable improvement on previous legislation. It is, however, not safe to pronounce any Act complete until it has stood the test of suits depending upon the construction put thereon by a court of law. We regret that in more than one clause the length is so great as to introduce needless confusion, and create difficulty in the endeavor to grasp its meaning. The forty-sixth clause, to wit, contains nearly 400 words, without a full stop, and ought to be broken up into at least four or five clauses.