

WAREHOUSE RECEIPTS.

THE question as to whether a valid warehouse receipt can be given by a commission agent is of much practical interest. In considering it we shall treat the case, not as a lawyer would, whose sole business is with the statute made and provided in the case, but on those broad and general principles which underlie all special legislation.

A commission agent can of course grant a receipt to the owner of the property, and he constantly does so in one shape or another. But no prudent person would advance money on the strength of such a receipt, for the very simple reason that the property is expressly sent for sale. If, therefore, the lender has to fall back on it as security, the probability is that it may have passed out of the hands of the consignee altogether. All consignments, moreover, are made to persons at a distance, and every commission merchant makes it his business to accept drafts against them. Receipts granted to the owner would obviously be useless as security for money advanced, for this reason, as the lender could never be certain that the property was free.

A case of this kind however, might arise—a commission agent accepts against property; his acceptance matures before he sells it; he desires to raise money on the property for the purpose of paying his acceptance, and offers to give to the lender a warehouse receipt as security now. Will such a receipt as this vest the property in the holder?

Such we think could not be the intention of the legislature, and it would not be equitable and reasonable to be so. The Act, be it remembered, vests the ownership of property with the party legally holding the receipt. If, then, a commission agent could grant such a document, the owner would find his property made away with without his knowledge or consent. Moreover, if a commission agent is allowed to grant valid warehouse receipts at all, it is obvious that he must be empowered to do so without restriction or limitation of circumstances. He cannot be allowed at one time to grant documents which will convey property and be forbidden under other circumstances to do so. For then there would be so much uncertainty about his receipts, that nobody would take them.

But if a commission merchant under all circumstances could grant a warehouse receipt for the property of another in his possession, and thus pass the ownership to a third party, the door would be opened to all manner of abuses and frauds. No man would be safe in consigning his property under such circumstances, and the end of it would be to stop the commission business altogether.

Every consideration therefore of reason and equity points to this conclusion; that the receipt of a commission agent, under no circumstances, will vest the property in any other than the original owner, and to him, such a receipt would be valueless for raising money, because of the uncertainty as to whether the property is free.

The case will not be affected in the least by a commission agent signing a receipt, and calling himself "warehouseman." If he is not a warehouseman in fact, holding the property simply for safe keeping, no designation he may choose to attach to his name will affect the quality of the document. There are many cases in which a merchant who is himself the owner of property, grants a receipt as security for money. Receipts granted by a merchant or dealer or manufacturer, are open to the gravest objections, and we do not believe that any such receipt will even convey the ownership of property. The only owner of property contemplated by the Act is a miller, and for reasons before assigned, there is nothing contrary to equity and fairness in the power which it gives him. In the very rare case, too, in which a person being a warehouseman, may have property of his own in store, there is no reason why, if he borrows money he may not, by a receipt, convey the property to the lender as security. And for this reason, from the nature of his business he is supposed to have no creditors. The case of a merchant or dealer, however, is wholly different. He buys on credit, or may do if he please, and in a majority of cases he does. The goods he has in his warehouse are, many of them, not paid for. They form part of the assets which constitute his means for discharging liabilities, and properly considered, his creditors have a claim to them. If he then could convey the ownership of his goods to another person by simply giving a warehouse receipt and borrowing money on it, his creditors would never be safe. A wide door to fraud would be constantly open, for

without any trouble of selling, without making any delivery, without doing any act which could come to the knowledge of his creditors, (as a chattel mortgage or a confession of judgment would), he can turn all his effects into money and cut them all out except the one who has lent him money. This person takes his property by virtue of the receipt, and the rest are swindled. It may be said that a merchant, if he chooses to act dishonourably, can by simply taking his goods to a warehouseman and getting his receipt, turn them into money first as effectually as if he had granted a receipt himself. This is true, but then, in such a case, he must do acts which would excite attention and arouse suspicion. He must cart away his goods and make actual delivery to a warehouseman; he must leave his own warehouse or store bare, and it would evidently be impossible for him to carry out a transaction of this kind without his creditors hearing of it. The process in fact is so surrounded with difficulties that it will rarely, if ever, be attempted. But if a merchant could make over his goods to another, and raise money on them, the same all the while lying undisturbed in his store, a downright temptation to fraud would lie in every needy trader's way. A warehouse receipt therefore given by a merchant, or any owner of goods other than a miller or bona-fide warehouseman, can never, under any circumstances, be intended to hold the goods, or to countervail an execution.

There are uses, however, to which warehouse receipts are put, as security which are not at all affected by the fact that they do not absolutely hold the property against an execution.

Want of space, however, prevents our enlarging further at present.

BUCKED AGAIN!

WE refer to the Tariff Bill which has been so long before Congress. Scarcely any measure has excited more interest in that body, even the Reconstruction question being sometimes forgotten amid the fight over the measure. The truth is, Washington has been filled with lobbyists, some asking more protection for one interest, and some for another. The principal of these have been persons in the iron interest, those engaged in manufacturing, and those interested in prohibiting the importation of foreign wool. There can be little doubt that large sums of money have been spent by the deputations representing these interests, to carry their point, and it is to be feared that several very far from impartial votes have been given. Up to the beginning of last week, the Protectionists thought that the measure would pass, and great was the satisfaction of the lobbyists. Their only fear was a veto by the President; but it would seem that Congress—or at least some of its members—have been playing fast and loose on the question, and by one excuse and another, time has been frittered away until the session has closed without its passage! The probability is—in fact it is openly charged—that this result has been purposely brought about. However this may be, it has intensely disgusted the lobbyists, and really done good to the country. The measure was a bad one, got up in the interests of classes and not of the community generally, and did not deserve to become law. It would have still further destroyed the trade between Canada and the United States, and in fact been prohibitive against many products for which we find a market across the lines. When the new Congress—the XLth—assembles, the measure will probably be revived, but it is to be feared that the new Members will not entertain more sensible views on questions of Trade than those which have preceded them.

THE MANUFACTURING MANIA.

THE uncertainty which prevails regarding the future policy of the coming Confederate Government, on the important question of Free Trade versus Protection, instead of retarding manufacturing experiments until the adoption of some fixed regulations, seems rather to have acted as a violent stimulant. Hardly a week passes in which we do not read of the formation of a Joint Stock Company, devoted to some class of manufacture. The local press invariably hails every manifestation of this nature with a great flourish of trumpets, and the active movers attain a very agreeable, if limited, notoriety during the period of inception.

While it affords us sincere pleasure to note the progress of our Province in any direction tending to the safe development of her resources, we fear that

many of the movements recently originated have been undertaken hap hazard, and are pregnant alone in the seeds of their ultimate dissolution.

It has fallen to our lot to be present at the preliminary meeting of one of this class of village Joint Stock Companies, held not only for the purpose of fixing upon the amount of capital required, but also, will it be credited, to finally determine in what branch of manufactures they would embark. Every member of the embryo body had some incredible statement to submit of the vast profits awaiting realization in his favorite line, and none seemed to entertain a solitary doubt of success, in any department the committee should in the exercise of their choice adopt. The only regret from which they seemed to suffer apparently, arose from their inability to combine the manufacture of everything on a scale hitherto without precedent in Canada. Men who by the exercise of self-denial and application in their various legitimate pursuits, have succeeded in acquiring a little surplus capital, and who under ordinary circumstances would carefully scrutinize the security upon which they would invest a moderate sum, seemed under the influence of a mania to secure stock to a large amount in ventures, regarding the conduct of which not one of them seemed to possess the smallest portion of correct theoretical acquaintance. This undue temerity may be explained by the fact of no single individual being required to assume the onerous task of carrying the crude scheme into practical operation, and also by the support afforded from the eager concurrence of the led members in the glowing, prospectively, profitable, verbal statements advanced by the leading spirits. These waxed warm not only upon the paying certainty of the future works, but upon the indirect benefits that were morally safe to accrue to the property owners and storekeepers of the village; who would be totally wanting in public spirit and common sense if they did not subscribe for a liberal share of the stock, before the opportunity of securing a fortune on easy terms was offered to the outside world.

Hitherto the history of manufacturing in Canada though free from these dangerous features, bears evidence of its full proportion of failures. The successful champions in the struggle have fought their way to victory from small beginnings, and through a series of financial and other difficulties, which have overthrown men of weaker judgment and determination. Are then (let us ask) the laws which govern trade suspended? Have the present race of speculative dissatisfied characters succeeded in devising an easy and royal road to wealth, through the gate opened by manufacture? Has some pleasant and shady bye-path been discovered by following which all the old difficulties can be overcome, and every possible contingency imminent to success safely evaded? However dull and obdurate our conduct may appear to the infected, we must still confess ourselves sceptical on these points. Aside from new enterprises, meeting the difficulty arising from an active and skilled home competition, during the period necessarily occupied in acquiring that practical business knowledge, which companies, like individuals, can only obtain through the school of experience; there is yet to be considered the probability of increased foreign competition, should the tariff be still further reduced. In this direction a change is more than probable as almost the whole press of the country are unanimous in the demand.

In the remarks which we feel it our duty to publish, we hope that none will fall into the error of supposing that we write for the purpose of discouraging the legitimate increase of our manufacturing interests. Nothing can be further from our purpose. But at the same time there exists no reason that because any particular branch of industry is intrinsically good in itself, that the admission should be the signal for an indiscriminate rush to grasp the expected benefits. So far from these advantages being easily secured, we would remind our readers that no other pursuit demands a greater exercise of patience, sagacity, and economy. The Canadian manufacturer to ensure success in any considerable degree must combine tact the power to select, organize and control his operations, with the skill and judgment of the wholesale trader in the purchase of his raw, and disposal of his manufactured stock. Capital directed by person gifted with these attributes, and willing to devote their whole time and thoughts to the advancement of their trade, may reasonably hope under ordinary favourable circumstances to secure the same fair per cent age of profit bestowed upon those who are successful fully following other kindred commercial pursuits.