

A HARBOUR OF REFUGE ON LAKE HURON.

BAYFIELD, Nov. 7th, 1868.

(To the Editor of the Trade Review.)

SIR,—Will you be good enough to find a small space in your widely circulated journal for a few remarks on the subject of a harbour of refuge on the East shore of Lake Huron, which I am led to make by a visit recently paid us by Mr. Munro and staff of the Public Works Department. They have been taking soundings and surveying all along this coast this season, with a view to the selection of the most suitable place for such a harbour of refuge. I desire to draw the attention of Government to this Port, the advantages it possesses for affording shelter to vessels in distress, and the claims it has to have public money spent in completing the harbour works already commenced. There is a good natural land-locked basin, of sufficient dimensions, on which this Township has spent the large sum of \$32,000 in the construction of piers, &c. This sum was borrowed from Government, but has all been paid back as it became due. If what has thus been done here was improved upon, a harbour of refuge might be constructed at a small expense and in the most economical way. We think, too, that this is the best, because the most central position, and situated so as to afford shelter to the greatest number of distressed vessels. Taking the records of the past fifteen or twenty years, it will be found that more vessels have gone ashore in this neighbourhood than on any other part of the coast. Vessels have been ashore here recently, and there is one now ashore about two miles south of us. Another is lying sunk between the piers, having come in in a leaky condition seeking shelter, but drawing too much water to come over the bar. If the old and experienced captains on these lakes be consulted, unless biased by prejudice, they will without hesitation pronounce Bayfield as the fittest place to be chosen. There is plenty of water, both outside and in, there being 20 feet of water for a distance of 1,000 feet from the end of the North pier and 11 feet at the end of the South pier, and an average depth all through of 9½ feet. When dredged ten years ago, there was a clear channel with a depth of 11½ feet, and the harbour inside had 17 feet. The deposit which has been formed since then can be easily removed by dredging, it being all loose sand and gravel.

We have a strong claim on Government, for when all the places to the north of us have had more or less of Government support, we have not been assisted in any way, and why this should be so, I am quite at a loss to understand, as we have contributed as much to the revenue of the country as any portion, and we are second to none in loyalty. I trust the time has now arrived when our claims will receive due consideration, and that we shall have our proper share of the Government money to be expended on harbours.

BAYFIELD.

LEGAL INTELLIGENCE.
SUPERIOR COURT.

Before His Honour Mr. Justice Mackay and a special jury.

THE BANK OF BRITISH NORTH AMERICA vs. DAVID TORRANCE, ET AL.

THE Court opened at ten o'clock on Thursday morning, His Honour Mr. Justice Mackay on the bench.

Mr. Bethune, for the plaintiff, stated the case in substance as follows: The plaintiffs bring action for the recovery of \$10,000 which they allege to be due them under the following circumstances: In the spring of 1867, David Torrance & Co., defendants, agreed to come under acceptance to the extent of \$20,000 to \$25,000 for one E. M. Yarwood, of St. Thomas, Ontario, with whom the defendants had had and were continuing to have very large transactions. In accordance with this agreement the defendants accepted a draft of Yarwood for \$10,000 to mature on the 18th July, 1867, and another for \$9,000 to mature some time later, taking as collateral security a policy on the life of Yarwood for \$20,000. On the 16th of May, 1867, the plaintiff, at its branch office at London, Ont., discounted the draft for \$10,000 before it was accepted, and forwarded it to the head office here, with bills of lading for certain quantities of grain which, on the acceptance of the draft by the defendants, were handed over to them and by them realized. The wheat had previously been held by the bank as collateral security for a payment of a note for \$12,000, which he retired with the discount of the draft and other monies. Some days before the maturity of the \$10,000 draft, i.e., on the 15th July, 1867, Yarwood called on Mr. McKenzie, Manager of the Bank of B. N. A. at London, and asked if he would agree to renew it for three months, which the manager consented to do. Thereupon, Yarwood drew on defendants, on said 15th July, 1867, for \$10,000 at three months, and, at the same time signed a cheque for the full amount of the draft, payable to the defendants in Montreal. The London manager, on the understanding that defendants would accept the new draft, marked this cheque payable at par in Montreal, and handed it to Yarwood to be sent to D. Torrance & Co., by these latter to be applied in retiring the draft for \$10,000 then maturing. Yarwood forwarded the accepted cheque to the defendants by letter, dated 15th July, 1867, in the following words:—

"I have drawn on you to-day, at three months, for \$10,000, and enclose cheque on the Bank of British North America for same amount, to retire bill due on 18th inst."

And the London manager, on the same day, enclosed the new draft to the Montreal manager, in a letter worded as follows:—

"R 449

"Torrance, 18th Oct., \$10,000. I have marked to be cashed at par at Montreal, a cheque of E. M. Yarwood for \$10,000, in favor of D. Torrance & Co., against this bill, and retire my R 449, due 18th inst."

Both letters arrived in due time, that is on the night of the 16th July, 1867. The draft was taken by the bank messenger to defendants' office and left there for acceptance till the following day. In the meantime the defendants telegraphed to Yarwood as follows:—"We decline accepting your draft made without authority, unless you can furnish satisfactory explanations." On the same day (17th July, 1867,) defendants wrote to Yarwood, acknowledging receipt of cheque, and announcing their intention to refuse acceptance of draft. In the meantime it appears that defendants gave the bank no intimation of their intention to refuse acceptance of the draft. They also cashed the cheque at the B. N. A. Bank which they had received from Yarwood. On the morning of the 18th inst., Mr. Cramp one of defendants came and intimated to the manager here that he thought his firm would not be able to accept the draft. The manager expressed his surprise and said that it was impossible for them to refuse acceptance as they had the proceeds in their pockets. Mr. Cramp said that Yarwood had no authority to draw on them, but that having telegraphed to him for an explanation, they hoped his answer would be such as would enable them to accept. Shortly afterwards the manager called on Mr. Cramp and showed him the letter of the London manager; Mr. Cramp in return showed Mr. Yarwood's letter inclosing the cheque, and said that there was no advice in it that the cheque represented the proceeds of the draft, to which the manager rejoined that it was impossible to separate the transaction. After the interview the defendants retired the old draft and the new one was protested for non-acceptance. The plaintiff contends that Yarwood's letter sufficiently informed the defendants, who must have understood it, that the cheque represented the proceeds of the new draft, and that the cheque had been transmitted to them on the faith of their accepting the new draft before making use of the proceeds. The defendants pretend that Yarwood was not authorized to draw on them; and there was nothing in Yarwood's letter shewing any connection between the new draft and the cheque; and that this cheque was sent by Yarwood to retire the old bill in pursuance of the understanding which had existed between him and them. On these facts the parties joined issue and have gone to trial.

On the conclusion of Mr. Bethune's address which lasted more than an hour, witnesses were examined for the plaintiff.

The questions submitted to the jury, and their answers thereto, are as follows:—

1. Were the plaintiffs, on the 15th July, 1867, at Montreal, the holders of a certain draft for \$10,000, which had been previously drawn by one E. M. Yarwood, of London, in the Province of Ontario, on the defendants, and accepted by them, and which was to mature and fall due on the 18th July, 1867?

Answer—Yes.

2. At the time of making and accepting of the said draft, was the said E. M. Yarwood engaged in purchasing grain in Upper Canada with money raised by drafts on the defendants, for the purpose of being shipped to and sold by the defendant on commission?

Answer—No.

3. Was the said draft accepted by the defendants, that the said E. M. Yarwood might make similar purchases with the proceeds thereof, and that they should thereby be enabled to make profit as well by such acceptance as by the sale of grain purchased with the proceeds thereof; or was the said draft so accepted by them without any such understanding, and purely for the accommodation of the said E. M. Yarwood, (and in order to free defendants' wheat, had been pledged by said Yarwood without defendants' consent, and the money obtained on such pledge,) and on the understanding and agreement that said Yarwood would meet and pay the same at maturity, or provide funds for its payment, and that no claim might be made against defendants in respect of the same?

Answer—We have no evidence of the defendants' having any wheat. The draft was accepted by the defendants as an accommodation to E. M. Yarwood, with the understanding that the said Yarwood should retire the said draft on maturity.

4. Did the said E. M. Yarwood, with a view to provide the necessary funds to retire the said draft at its maturity, make and sign, on the 15th day of July, 1867, at London, as aforesaid, the draft for \$10,000 in the plaintiffs' declaration referred to?

Answer—Yes.

5. Did the said E. M. Yarwood request the plaintiffs to discount said draft of the 15th day of July, 1867, and allow him to draw a cheque for the full amount thereof, in order that he might retire the said first mentioned draft, and upon the representation and engagement by him that the defendants would accept such new draft; and did the plaintiffs discount such new draft, and accept the said cheque, and certify it as being payable in cash at Montreal on the faith of such representation, assurance and undertaking, and deliver it to the said E. M. Yarwood for the purpose aforesaid?

Answer—Yes.

6. Did the said E. M. Yarwood transmit said accepted cheque to defendants, informing them in effect that said cheque represented the proceeds of the said draft for \$10,000, so drawn on the 15th day of July, 1867, by him on defendants, and that said cheque had been obtained on representation that said defendants would accept said draft on the 15th July, 1867, and requesting defendants to accept such draft, and with the proceeds of said cheque retire said first mentioned draft for \$10,000 to mature on the 18th July, 1867; or did said E. M. Yarwood transmit said cheque to defendants without explaining how he had obtained it, and informing them only that it was to retire said first mentioned draft, to become due on 18th July, 1867?

Answer—Yarwood remitted the cheque in his letter of the 15th July, 1867, to cover the draft due on the 18th inst., without explaining how he had obtained it.

7. Was the said draft of the 15th day of July, 1867, presented to the defendants for acceptance on the 17th day of July, 1867, by the said plaintiffs and left with them according to the custom of trade in that behalf until the 13th day of said month; and did the said defendants, on the last mentioned day, refuse to accept said draft?

Answer—Yes.

8. Was the said last mentioned draft protested for non-acceptance and non-payment, and was notice of such protest attended with the costs in said declaration alleged?

Answer—Yes.

9. Was the said draft presented for acceptance after said defendants had so been made aware of the transaction, and did they obtain the amounts of said cheque from the plaintiffs before refusing acceptance of the said draft?

Answer—Yes.

10. Did the said defendants, immediately on receiving said cheque on the 17th day of July, 1867, present the same for payment and receive thereof from the plaintiffs, and did they then immediately place the proceeds to the credit of the said Yarwood?

Answer—Yes.

11. When they so presented the said cheque for payment, did they know or had they reason to believe, that it represented the proceeds of the draft of the 15th July, 1867, and that such draft was only discounted upon the faith that they would accept it?

Answer—We are of opinion that the defendants had reason to believe that the cheque was the proceeds of the draft of the 15th of July, and that said draft was discounted upon the faith that defendants would accept it.

12. Did the said plaintiffs, on the 18th of July, 1867, notify said defendants of all the facts and circumstances connected with the discounting of said last mentioned draft, and the acceptance and transmission to them of said cheque as alleged in said declaration; and did the plaintiffs also forbid the said defendants to use the proceeds of said cheque without accepting said draft?

Answer—Yes.

13. Did defendants, after being so notified and forbidden, and with a full knowledge of all the facts and circumstances under which said draft was so discounted, use the proceeds of said cheque for \$10,000 with intent to relieve themselves, at the expense of the plaintiff, from their liabilities on the said draft, which became due and payable on the 18th July, 1867, and did they in fact, retire and pay the said draft with the proceeds of the said cheque?

Answer—The defendants drew the amount of the cheque (but how they applied the proceeds is not known) and retired the drafts with legal tender notes through their notary.

14. Was the said E. M. Yarwood, on the said 15th July, 1867, wholly unable to pay the amount of the said cheque, and did the same become wholly insolvent, *en état de banqueroute*?

Answer—Yes.

15. Did the said defendants, when they received the said cheque from the said E. M. Yarwood, know, suspect or believe, or had they reason to suspect or believe that the said E. M. Yarwood was then either insolvent or wholly about to become so?

Answer—We have no evidence to show that the defendants considered Yarwood an insolvent at that time.

MR. BRYDGES' LETTER.

FULL TEXT OF HIS REPLY TO MR. HESELTINE'S CHARGES.

LONDON, Oct. 20, 1868.

GENTLEMEN,—Having just arrived in England from Canada, my attention has been called to a circular issued by Mr. Heseltine, dated 7th October, in which he asks for information upon certain points. The time before the meeting is too short to permit of my doing more than very briefly giving distinct answers to the questions contained in Mr. Heseltine's circular.

The first question is as to the cartage business in Montreal—Who are the partners in the concern, and does the firm enjoy peculiar facilities for freightage on the line?

The cartage agent in Montreal is Mr. John Sheddon. He has not, as far as I know, any partners. He was cartage agent for the Grand Trunk Company before I became its manager. He is paid precisely the same rates that have been current in Montreal for cartage for many years before the Grand Trunk came into existence. He is not a freighter upon the line and enjoys no peculiar privileges.

I presume the question as to who are the partners "active or sleeping," in the concern, is intended to insinuate that I am personally interested in it myself. This is absolutely false. I have not, and never had, the slightest interest in it in any way whatever, direct or indirect.

The second question put by Mr. Heseltine is as to some person, whose name is not mentioned, who has