moiety to the person who sues for the same." This section, it will be seen, is substantially the same as the statute of Anne, already mentioned.

The old statutes respecting usury have been construed liberally by the courts, so as to effect the suppression of usury as far as possible. Lord Mansfield, in giving judgment in a case of *Floyer* v. *Edwards*, Cowp. 114, says: "Where the real truth is a loan of money, the wit of man cannot find a shift to take it out of the statute." The later cases, however, show a disposition to relax much of the old strictness with respect to usurious transactions. Sir J. B. Robinson, C. J., in giving judgment in an action brought on a covenant contained in a mortgage to a building society, where the defence of usury was set up, said, "It may be quite true that the taking shares with a view to borrowing, and not with the intention of continuing upon the footing of an investor, is only a contrivance to evade the usury laws; but we cannot but see very plainly that such societies are in themselves contrivances to evade by statute the usury laws, and therefore we cannot see much force in the objection, especially since the alterations in the laws regulating interest (16 Vic. cap. 80, &c.), which have in effect abolished usury altogether." (*Canada Per. Building Society* v. *Rowell*, 19 U. C. Q. B. 124. See also the remarks of Draper, C. J. C. P., in *Commercial Bank* v. *Cameron*, 9 U. C. C. P. 378.) This is very different language from that used by Lord Mansfield; and though true it is that the statutes do not abolish usury as far as banks are concerned, yet it shows the leaning of the courts and the tendency of the age.

To a somewhat similar effect are the remarks of Vankoughnet, C., in *Drake* v. *Bank of Toronto*, 9 U. C. Chan. Rep. 116; 8 U. C. L. J. 320, where he says: "Although a perusal of the whole evidence in this cause cannot fail to impress one with a strong feeling that in the dealings of this bank with the firm of G. R. & H., an attempt has been made to elude the provisions of the recent statute of this Province, prohibiting the taking by any bank of more than seven per cent. per annum for the loan and forbearance of money, I do not think the evidence here is of that clear and conclusive character to warrant relief being granted to plaintiffs on that ground." He goes on, however, to show that if the evidence is conclusive the courts will apply the statute strictly: "When the Legislature was repealing the laws restricting the amount of interest to be taken by private persons for the use of money, it saw fit to retain those restrictions in their full force so far as the banking institutions of the country are concerned; feeling no doubt that, as there are conceded to those bodies vast and important privileges and advantages in the conduct of their business, they ought to be restricted in the amount of interest they should be permitted to charge, and there can be no doubt as regards them the laws against usury remain in force, and in a proper case will be applied with the utmost rigour."

The ordinary transaction of discounting a bill or note by a bank is a lending within the statute of Anne, and the word "discounting" is expressly used in our statute. It has been laid down as a general rule of law, that if the interest be retained at the time of the loan, the contract is usurious (*Barnes* v. *Worlich*, Noy 41; Cro. Jac. 25; Yelv. 30). But in favor of trade an exception was allowed in the case of the discount of bills. Our statute expressly recognizes the right to receive and take interest in advance, and in the acts of incorporation of several of the banks in this country it is expressly provided that such banks, "in discounting promissory notes, bills or other negotiable securities or paper, may receive or retain the discount thereon at the time of discounting or negotiating the same."

One effect of this privilege is, that interest is charged, not on the sum actually advanced, but, on the sum for which the bill or note is made payable. Thus if a bill for $100 at twelve months date is discounted at seven per cent. per annum, the sum actually paid to the borrower is $93, and the $7 discount retained is, in fact, interest on the $100 at the rate of about $7 53. It is evident that the longer the date of the bill, the greater the amount of interest retained, the less the actual advance, and the higher the rate of interest on the advance; so that if a bill or note at fifteen years date were discounted at seven per cent., the interest would more than annihilate the principal. (See Byles on Bills, p. 246.) We suspect that this view of the subject does not often strike those parties who are in the habit of getting notes "done," or perhaps they would not be quite so anxious to have their paper made at as long dates as possible.

Another and a more obvious consequence is, that the discounter really makes compound interest, as the discount that he retains is lent again to a subsequent borrower, and so on *ad infinitum*.

It has long been a well settled principle of law, that if money is lent at an exhorbitant rate of interest, upon a casualty by which the principal as well as the interest is put in hazard and the risk of an entire loss is run, this is not usury. Of course we do not allude to the ordinary risk attendant upon the lending money upon bills or notes, but to something beyond this; as for example, a contract of bottomry or respondentia, that is, pledging a ship or her cargo as a security for the repayment of money borrowed at an excessive rate of interest, or for a contract of insurance in consideration of the payment of a premium to the insured as an equivalent to the risk run by the insurer