

DIVISIONAL COURT.

DECEMBER 24TH, 1912.

TOWNSEND v. NORTHERN CROWN BANK.

Banks and Banking—Securities Taken by Bank under sec. 90 of Bank Act—Securities upon Sawn Lumber—Wholesale Purchaser—"Products of the Forest"—"And the Products Thereof"—Bank Act, sec. 88(1)—Assignment for Benefit of Creditors—Continuation of Former Securities—"Negotiation" of Note—Assignment of Building Contracts—Assignment of Book-debts.

Appeal by the plaintiff and cross-appeal by the defendants from the judgment of MEREDITH, C.J.C.P., reported 26 O.L.R. 291.

The appeal was heard by MULOCK, C.J.Ex.D., CLUTE and RIDDELL, JJ.

W. Laidlaw, K.C., for the plaintiff.

F. Arnoldi, K.C., for the defendants.

MULOCK, C.J.:— . . . The plaintiff's grounds of appeal in substance are as follows:—

1. That the debtor, Brethour, was not a wholesale purchaser within the meaning of sec. 88, sub-sec. 1 of the Bank Act;

2. That the lumber in question was not "products of the forest;" and,

3. That the note in respect of which the bank claims to be entitled to the securities claimed, was not negotiated by the bank.

Subsec. 1 of sec. 88, is as follows: "The bank may lend money to any wholesale purchaser or shipper of, or dealer in, products of agriculture, the forest, the quarry and mine, or the sea, lakes and rivers, or to any wholesale purchaser or shipper of, or dealer in, live stock, or dead stock, and the products thereof, upon the security of such products, or of such live stock or dead stock and the products thereof."

Dealing with the first question, the evidence shews that Brethour bought lumber in car-load quantities, storing it in his yard, where he would have at times from two to three thousand feet. The lumber thus purchased was partly used by Brethour in filling building and other contracts, and carrying on his own business generally, and partly disposed of by sales in small quantities to the general public. This business was carried on