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THE EARLY HISTORY OF CANADIAN BANKING

II

CURRENCY AND EXCHANGE AFTER THE CONQUEST

HAVING seen, in the case of our banking system, whence came the sapling which has grown into the present wide-spreading tree, we have next to enquire as to the nature of the soil into which it was transplanted, the streams of commerce which were to water it, and the social and political atmosphere in which it was to flourish. Especially do we require to know in what manner and to what extent the services rendered by banks had been performed before their introduction. Banking facilities do not burst upon the business community as a quite new and developed service; they simply afford an easier, more effective and generally less costly manner of rendering services which are already performed in more or less primitive fashions.

The period between the Conquest and the appearance of the first banks in Canada has been, from an economic stand-

point, the most obscure in the history of the country. To the student of economic history it is almost entirely virgin ground. It is only, indeed, since the valuable collection of documents and papers brought together in the Canadian Archives Office has been made available to the student of our country's history, that a continuous and sure-footed narrative in this department has been at all possible. The other sources of information, valuable though they are on many points, are yet very fragmentary, and require for their full understanding the light which these voluminous records throw upon them. I may be pardoned, therefore, if, in this new field, I give in some detail the prevailing ideas, methods and conditions of exchange which preceded and prepared the way for the introduction of banking.

Practically all of the Canadian trade with the outside world, being mainly that with old and new England, and much the greater part of the wholesale domestic trade as well, passed, at the time of the Conquest, into the hands of the English traders. It thus took on quite a different complexion, and was conducted on quite different principles from those which prevailed under the French regime. Hence, though the monetary and general economic experience of the French Canadians under French rule, naturally continued to have much influence upon their economic habits, as well as upon their attitude towards the English methods of trade and exchange, yet it is not necessary to go behind the period of the Conquest in seeking a starting point for our narrative.

The chief feature of interest to us in connection with the passing of French power in Canada, was the enormous issue of paper currency during the closing years of French rule. The magnificent scale upon which corruption flourished in that small community, and the exhaustion of the French treasury, left an immense amount of paper currency, or bills of exchange obtained for it, unpaid, and the cession of the colony to Britain left little hope of the paper being redeemed. For some time before the Conquest, practically nothing but paper currency was in circulation; while after the Conquest, and before the extracting of a promise from France to make a partial redemption of its obligations, the paper money was almost worthless, and was not receivable in trade by the British merchants. It

might seem at first sight, then, that the new British administration found in Canada a country almost entirely without a circulating medium. When, however, we look into the matter more closely, we find that when the last great issue of paper money began, though the metallic money in circulation rapidly vanished, yet very little of it left the country. It simply disappeared into the stockings and strong boxes which were kept by the people, even in the narrowest of circumstances, in accordance with a well known national characteristic of Frenchmen. The same fate befell the considerable quantities of specie which accompanied the officers and troops coming to Canada under Montcalm. Soon after their arrival they complained that nothing but paper money was to be found in circulation. When, therefore, the paper money suddenly became practically worthless at the Conquest, though of course many of its possessors were greatly impoverished, yet the people generally were not entirely ruined, nor was the country quite deprived of a circulating medium. Metallic money began to come out of hiding, and the English merchants drove quite a brisk trade, even though they declined to take the paper money until there was some prospect of its being of value.

That the people of Canada were in possession of a large quantity of metallic money immediately after the ceding of the country to Britain, and that the money was French, and not British, is evident from the two first ordinances passed by the British government for the regulation of the Canadian currency. The first was passed in 1764 and the second in 1766; in both the Louis d'ors and the French crowns are rated somewhat above their normal value, with the express intention of retaining them in the colony as the chief features of its currency. That the French population generally still retained under British rule their characteristic habit of hoarding specie, is shown in an account of the colony given by an observant American revolutionist, Charles Carroll, who was in Canada in 1775-6. Speaking of the French Canadian farmers he says: "It is conjectured that the farmers in Canada cannot be pos- "sessed of less than one million pounds sterling in specie; they "hoard up their money to portion their children; they neither "let it out at interest nor expend it in the purchase of lands."

This peculiarity of the French Canadian is well worthy of note, as it had a marked influence upon the whole economic character of Lower Canada, and was a very important factor in connection with the beginning of Canadian banking.

We pass over the whole of the interesting negotiations and regulations connected with the collection, registration, long delayed, and in the end very partial redemption of the French paper money, which, as necessitated by the conditions of payment, at once passed out of circulation in the colony.

Among those who were the chief sufferers from the vanishing value of the paper money, were the Canadian noblesse, or seigneurs, and the leading French merchants, or purveyors for the troops. The aristocracy had also suffered from the curtailment of their feudal privileges, and the loss of the numerous offices and perquisites which they enjoyed under the French government, and which caused the maintenance of the colony to be such a heavy drain upon France. This aristocratic element was, naturally enough, the class with which the English governors almost exclusively associated, and from whom they obtained their ideas of the country, the people, and the proper administration of the colony. How fatally mistaken these ideas were, after events clearly proved.

The English element which followed the Conquest consisted almost entirely of traders or merchants, mainly from the other English colonies to the south, though many of them were originally from Britain, several of them from that Highland emigration to America which followed the disaster of Culloden. These men were not slothful in business, but fervent in spirit, mainly serving themselves. The slipshod, easy-going, antiquated business methods and corresponding law of the French Canadians did not suit these men who naturally believed, and with reason as the future was to prove, that the advantages of English commerce could only be secured under English methods and English laws. They were not by any means all of one class, for while some were certainly not over-scrupulous as to their methods, others were exceptionally able and upright men. Unfortunately for themselves, they were all more or less tainted with the spirit of British freedom and independence, and had an obstinate conviction that the British system of law and

government was in every respect superior to all others, and was the proper system to be introduced into British dominions, taking little account of any practical difficulties in the way. These ideas did not accord well with the opinions of men of purely military training and experience, suddenly converted into civil governors. The governors had to admit, indeed, that the Canadian colony owed its rapid recovery and flourishing trade almost entirely to the English merchants, yet they found them extremely troublesome to get on with, as they were always pestering the government for innovations and improvements in the administration. How much more attractive, to governors with military and aristocratic leanings, were the Canadian noblesse, with their polite flattery, their military training, and their feudal abhorrence of trade, enterprise, popular freedom and independence. How extremely natural that eighteenth century English governors should gravitate to the side of the Frenchmen, with their admirable tastes, and their highly proper ideas of the majesty of the governor. Such men were surely to be encouraged and supported. Did not, in fact, a dignified and well ordered government owe them a living ?

On June 7th, 1762, while Canada was still under military rule, and its ultimate possession, though fairly certain, yet still unfixed, Governor Murray sends to Egremont, the Secretary of State, a lengthy report on the state of the country, which is of considerable interest for our present inquiry, on account of the plan for a provincial currency which it contains, and which incidentally throws considerable light on several associated points.

The Canadians, he says, labor under difficulties for want of cash, and hence the English merchants find some difficulty in disposing of their goods. He wishes some means could be devised for obtaining a circulating medium to enable the Canadians to stock their lands, and the English merchants to dispose of their goods. It would be a very good thing for both Canada and Britain. It will be observed that the governor is quite unconscious of the radical difference between capital and a circulating medium. With this end in view he has a plan to submit. He proposes to put in circulation a certain sum in paper bills,

say £100,000 to start with. However, as the Canadians are naturally rather shy of paper bills, after their late experience, it will be necessary to adopt special measures to get them into circulation, and to this end he would suggest :

First. That his scheme should receive the sanction of the home Government.

Second. As it would be a popular act to assist the people in rebuilding their church, the first paper issued might be used for this purpose. This would enlist the interest of the clergy and give credit to the bills. Then some of the bills might be used as loans to the people of Quebec, to assist them in rebuilding their houses and improving their lands, security being taken.

Third. The British merchants should be got to consent to receive this money in return for their goods, and for this purpose the duties on imports should be made receivable in this paper, either in whole or in part.

Fourth. A tax should be levied and the proceeds set apart for the gradual redemption of the paper money. This might take the form of a tax of half a dollar upon each house in the province, while the houses of the seigneurs, gentry, merchants and publicans, and all those in the towns, might be taxed one dollar each. The revenue to be thus derived he estimates at £3,000 annually, reckoning the dollar at five shillings. After a time the tax might be increased or some other taxes added.

As soon as this currency is well established it might be used for every purpose of government, such as repairing old and making new fortifications, etc. Thus, he concludes, surveying his plan with sprightly confidence, Canada could be made to flourish without any aid from the mother country such as the other colonies in America constantly require.

No one, I fancy, with any sense of humor would have the temerity to attempt a criticism of such a financial work of art as this.

The following year, 1763, when the fate of the country was settled and there was some prospect of a partial redemption of the Canadian paper money, Murray again brings forward his self-acting scheme for Canadian prosperity. Now, however, the new issue of paper money is to be given to the holders of the old paper money, at a certain proportion of its face value. A

general tax is still to be levied in order to provide a sinking fund to retire the paper in time, though fresh paper is to be immediately issued to replace the old, in its joint function of circulating medium and working capital. In these schemes the simple directness of the relation of means and end, the delightful inconsequence between the objects for which the money was to be issued and the sources from which the redemption fund was to be drawn, are strongly suggestive of the turn of mind and financial experience of a military man or a populist.

Nevertheless, it is quite evident that Murray was considerably influenced in his views as to the necessity for the government coming to the assistance of the needy French Canadians, by his intercourse with the Canadian aristocracy. As I have already indicated, it was the most natural thing in the world, considering their historic traditions and personal experience, that the distressed Canadian nobility, and the governors on their behalf, should be most anxious to induce the British government to provide a sufficient number of offices, military if possible, which they might fill with becoming dignity to the government and profit to themselves. As a sample of their views on this subject we may take the memoir dated May 1st, 1765, prepared by the principal French citizens, setting forth the present state and abilities of the province. They contrast the flourishing state of the colony under French rule, from 1749 to 1755, with the disastrous condition of the country since the peace. They attribute this decline to the lack of sufficiently large expenditure in the colony by the British government. The remedy proposed for this dangerous state of things consists of two alternatives, namely, that Britain should either support a sufficiently large standing army in Canada, or build frigates and other vessels at an annual outlay of 3,000,000 livres, to be issued in bills or paper money on the credit of the government, and payable in London. In other words, they advocate a complete restoration of the French system of administering the colony. The first alternative was evidently the one most to their liking, and many representations in its favor were forwarded to the home government by Murray and Carleton, and we know how the latter employed it in connection with the Quebec Act, and how, when the critical moment arrived, he

found himself, to his great astonishment, with a fine staff of officers and no men.

At the same time that this memoir appeared, representing the decaying state of the province from the point of view of the French Canadian aristocracy, other observers were confirming it, in a manner, by contrasting the rapidly improving condition of the French Canadian farmers, with the poverty and declining state of the Canadian seigneurs. The statistics of the colonial exports for this period also indicate a great improvement in the condition of the common people.

The British government at this time was too much occupied in its struggle with "Wilkes and liberty," and in laying the foundation for future discontents at home and abroad, to give much heed to the condition of the distressed nobility of Canada, or paper money schemes for their relief.

After Murray's departure, in June, 1766, to answer the charges preferred against him, chiefly by merchants of London and Quebec, the command devolved on P. Æmilius Irving, pending the arrival of Sir Guy Carleton. One of his first duties was the framing of a new ordinance on the currency, in which, as he observes in his report to the Board of Trade, the Louis d'ors and the French crowns are still overrated in order to retain them in the country as has hitherto been found successful. He adds that it is now desirable that a quantity of small currency should be sent into the province.

The reason for the scarcity of the small currency is not far to seek. The overrating of the larger French coins already in the province, and of the Portuguese Johannes and moidores, which formed the chief elements of the specie introduced by the agents of the British government, caused values to adjust themselves to their standard. This resulted in a corresponding underrating of the smaller silver coins, which, in consequence, gradually disappeared from the country. When, owing to the great scarcity of fractional silver and even of copper, the merchants found themselves unable to make change for their customers, some of them resorted to the plan of issuing small paper due-bills which were to be received in future purchases of goods at their shops. Once established in this usage, the due-bills began to pass from hand to hand in other exchanges,

and thus they afforded practical relief from the difficulties of the situation. The right to issue this fractional paper not being confined to any one in particular, it was issued by any merchant or trader whose credit would enable him to do so, and much confusion must have resulted. Still, it became a firmly established factor in the exchange mechanism of the country, and, in various forms, it survived for many years both in Lower and Upper Canada. The range of circulation and the credit of the bills depended entirely upon the reputed credit of the person issuing them. From the fact that they originated in Lower Canada, and that they were generally introduced with the words, "Bon pour," etc., they came to be universally designated *bons*. We shall have frequent occasion to note their appearance and influence in the course of the development of our subject. Here we may simply observe that the use of the *bons* tended to prepare the country people for the appearance of bank notes; at the same time the inevitable difficulties connected with them afforded a basis for several sharp criticisms upon the issues of the first banks.

The scarcity of change continuing, and the system of *bons* becoming general, with obvious advantage to the merchants, it occurred to an enterprising auctioneer of Quebec, named William Titchbourne, that a fortune awaited the man who could obtain a monopoly of the right to issue these small promises to pay. No doubt the general advantage which would result from uniformity of issue, and the consequent avoidance of confusion, seemed to him a strong argument in favour of his scheme. At any rate he decided to apply to the governor-in-council for an exclusive charter. Thus we find in the minutes of Council of August 27th, 1767, a record to the effect that there was read the petition of William Titchbourne, auctioneer, praying for the exclusive privilege to issue promissory notes for small sums by way of change for silver and to supply the want of copper coins. This is undoubtedly the first attempt to obtain a bank charter in Canada. The council, however, dismissed the petition; it was, indeed, beyond their authority to grant it. It was, strictly speaking, the duty of the civil government to put a stop to the circulation of the paper then in use. But experience was showing that the laws and special ordi-

nances then in force for the regulation of the currency, and which had been mostly determined in Britain, were not workable.

On August 17th, 1772, Gramahé, who was administering the government in the absence of Carleton, sends to Hillsborough quite a full and interesting report on the subject of the currency. He confesses that he had found it necessary, in the end, to leave the adjustment of the values of the different larger coins, especially the Portuguese Joes and half-Joes, as they were called, to be settled by the Quebec and Montreal merchants between themselves. The Montreal merchants, we find, were able to turn the scale in favor of their usage, which, in turn, was determined by that of the English colonies to the south, with which the Montreal merchants were always most intimately connected, and from whence both the government and the merchants of Canada obtained their supplies of specie.

In the same despatch Gramahé refers to the continued high price of silver, which, as it circulated in Canada by tale and not by weight, and was underrated as compared with the gold coins, was still the more profitable metal to export to the other colonies in payment for supplies. Referring to the lack of small silver for change, he says, "It is so very scarce that "government has been under the necessity of winking at "every little retailer's circulating paper bills of his own, some, "if not much of which must fall a dead loss to the public, "whenever they are cried down, or the issuers come to wind "up their affairs." He hopes that when the government here is fixed upon a permanent basis some method will be found to correct these evils. On Nov. 4th, Dartmouth, on behalf of the Board of Trade, replies to Gramahé, admitting that his leaving the determination of the values of the Portuguese coins to the practical arrangements of the Quebec and Montreal merchants, was the wisest thing to do under the circumstances. With reference to the scarcity of the silver coins, he says it is a difficulty to which Quebec, in its present commercial condition, must continue to be exposed; but nothing can be done until the colony has a more permanent constitution. Till then the circulation of foreign silver coin must be regulated by the provisions of the statute of Queen Anne.

Thus were the currency difficulties of the colony left for

the present to the practical adjustment of circumstances, and the colonial administration was virtually authorized to continue winking, with as little loss of dignity as possible, at the circulation of the *bons* until the government of the colony should be settled. The measure which was to have that sedative effect was the noted Quebec Act of 1774. But, much to the chagrin of its authors, that unfortunate measure had the very opposite result. It was the attempt to enforce this Act which revealed the utter misconception of the real condition of the country, and the needs and attitude of the general population, which Carleton, like his predecessor, had obtained from his almost exclusive association with the Canadian aristocracy, and his reliance upon their statements. This Act, also, by its intended effect upon the refractory colonies to the south, destroyed the last hope of reconciliation, and precipitated the general revolution. Instead, therefore, of the Canadian government proceeding to deal with such details as the currency, it found its hands full of quite other work. In 1775 communication with the southern colonies was cut off by a revolutionary army sent to intercept the expected invasion from Canada which Carleton and the English government had planned to follow the Quebec Act, and the anticipated enthusiasm which would be roused among the people of that province, on account of the restoration of the French system of government and civil law. But there was no invasion from Canada. The Quebec Act had indeed secured the enthusiastic support of the distressed nobility of that country, and the higher functionaries of the Church, but it had alienated the great mass of the French Canadian people, who regarded themselves as cruelly duped in being thrust back once more under the feudal power of their old oppressors. Hence, to his amazement, Carleton, instead of raising an enthusiastic army of French Canadians with which to suppress the rising in the English colonies, found himself unable to muster, with the utmost efforts of persuasion, threats, or inducements, a sufficient number to properly garrison the towns. Learning that Carleton was thus in process of being hoist with his own petard, the colonial efforts were changed from the defensive to the offensive. Canada was invaded and almost despaired of before the arrival of the English troops.

Thus for a time was the prosperity of Canada checked. But on this, as on several other occasions afterwards, the distress of England was to be the joy of Canada, until the Canadians came to be credited with including in their prayers joint petitions for a bountiful harvest, and a bloody war. Canada soon became the base of operations of a large British force, and the region from which supplies were drawn both for the forces in the country and for those engaged in the revolted colonies, as well as for the Indians of the west. It can easily be imagined then, that, with an excellent local market for almost everything which the country could produce, prosperity in its brightest form was once more smiling upon the province, and the French Canadian, as he stored away the precious coins, forgot the relapse from liberty which he and his country had suffered, and while for the most part himself refusing to fight, he was eager enough—for a consideration—to feed those who would.

During the period of interrupted intercourse with the other colonies, one of Carleton's despatches to Dartmouth, from Montreal, dated 7th June, 1776, throws considerable light on the intimate commercial and financial relations which normally existed with the southern colonies. After dealing with other interesting matters, he refers to the condition of the money supply. "Our communications with the other provinces being "entirely stopped, we run the risk of being at a great loss for "money, to defray the ordinary and extraordinary expenses the "service here must be attended with, the money contractors as "well as trade, at this time of the year, being used to procure "large supplies of cash from New York and Philadelphia, with "which places we have at present no intercourse; if £15,000 or "£20,000 were sent here as soon as possible, it would be of great "use to government, which must lose considerably by the present "low course of exchange, likely to fall every day; could it be "procured in dollars, and some part in small silver, the same "would prove highly beneficial to this country, where that species "has become extremely scarce."

Here, among other things, we have an indication of that three-cornered system of exchange, which, beginning immediately after the Conquest, has prevailed with modifications down to the present time. The form in which it existed at that time may be briefly sketched.

The general income of Canada was derived from two sources, namely, the exports to England or the other colonies, and the expenditure of the British government in the country. This was only partially offset by direct imports from England. A very large proportion of the Canadian imports came from the other colonies, being partly the product of these colonies, and partly imports from Britain or the East and West Indies. The Canadian claims on Britain were drawn in bills of exchange on London—those for exports by the merchants, those for government expenditure either by the governor or his representative, or, more commonly, by the resident agent of the money contractors, who were London bankers or brokers. After paying for the direct imports from England, the balance of the bills were sent to the colonial centres, such as Boston, New York and Philadelphia, partly to offset the imports from those and neighboring places, and partly in exchange for specie, which was returned to Canada, usually by way of the Champlain route to Montreal. A great part of the specie so obtained again flowed back in small streams to the northern fringe of colonies from which the Canadians received many supplies, as well as produce for export by the St. Lawrence route. A certain amount of this specie continued to pass, in prosperous times, into the small hoards of the French Canadians, who managed to make up by thrift for their lack of economic enterprise.

Such being the normal circulating system of trade and exchange, when the connection with the American colonies was temporarily broken off, the bills of exchange on England found a very narrow market, the price fell, and the government suffered loss and inconvenience. Carleton therefore recommends the sending of specie, and asks that it be sent in dollars, to which the Canadians were now quite ascustomed. The further request that a considerable quantity of small silver be included indicates the persistent scarcity of fractional currency, and the continued use of *bons*. After several urgent calls for specie the home government began to send some. But the troops accumulated in the province, increasing supplies were required for the swarms of Indian retainers of the west and north-west, and some of the troops in the revolted colonies had also to be supplied; thus the expenditure of the government in Canada increased enormously, and with it the need for a corres-

ponding expansion in the medium of exchange. The special situation of the country caused the amount of circulating medium required to be unusually large. Canada being frozen off from the rest of the world for about one half of the year, bills on Britain were saleable there during a very limited portion of the year. It would require, therefore, an enormous amount of ready money in the hands of the merchants to enable them to purchase all the bills of exchange in the autumn, and before they had well begun to dispose of their yearly supply of goods. On the other hand, the same system involved the holding of a very large sum of idle money in the military chest or provincial treasury during a considerable part of the year. If the agent of the money contractors would consent to forego the immediate delivery of specie at the close of navigation, when the bills were purchased and sent off, and would permit the merchants to deliver it during the winter and spring in proportion as they disposed of their goods, then a better price might be obtained for the bills, and a smaller amount of currency would answer the needs of the country. Haldimand, then in command in Canada, joined his voice to that of the merchants in urging this concession. The agent gave way; bills on the money contractors in London were disposed of on credit, which, coming to the ears of the contractors, brought forth a strong rebuke to the agent and a peremptory refusal to take any such risks for the future. This precipitated trouble in the colony, and a sort of financial crisis ensued, the particulars of which, however, do not belong to our subject. After this, for a time, the government continued to send large quantities of specie to Canada, until there was a plethora of it, and a corresponding scarcity of bills of exchange. About 1783 the Canadian merchants found it necessary to send a petition to the Treasury, praying that no more specie be sent to Canada, as the merchants there could supply all that was wanted in exchange for bills on the Treasury.

Many Canadians during this period accumulated considerable fortunes. The prodigal expenditure in the western parts of the country in particular, enabled quite a number of Montreal merchants to lay broad and deep the foundations of an extended trade with the western fur country and the newly established settlements in Upper Canada. The more prosper-

ous French Canadians, in virtue of good prices and abundance of specie, converted considerable quantities of their private hoards into family plate, a steady source of pride and satisfaction while it continued in that shape, and a visible insurance against any future day of need. Much of this old plate is still to be found in Quebec province; the people of Britain have a souvenir of it also in the shape of a considerable fraction of their national debt.

During the revolutionary war English specie came to Canada for the first time in any quantity. The currency of the colony then consisted of three distinct elements—the French coins left in the colony at the Conquest, the Portuguese and Spanish coins introduced from the English colonies, and the British coins brought directly from England when the southern supply was shut off. These different coins were also of varying values, according to the wear, mutilation, or sweating, which they had undergone. A good idea of the miscellaneous state of the currency may be gathered from the following extract from the report of the merchants of Montreal to Carleton in 1787, on the question submitted to them as to whether it would be advisable to attempt to bring all the gold coin of the country to a certain weight: "By the present laws "respecting gold coin we pay considerably more than the mint "price for all Portugal gold, all guineas and French Louis "d'ors, and considerably less on Spanish and some kinds of "French gold, yet we apprehend that the loss occasioned by "this difference is not so great as the inconvenience would be "of altering the present rate. We are of opinion that guineas "should not be taken at 23s. 4d. unless they weigh fully 5 dwts. "8 grs., because they are at that rate about 1s. per oz. higher "than in England, and to take them at a less rate would "heighten the difference and likewise encourage the sweating "and clipping that is already too much practised. We pre-"sume that to recommend plugging coin is encouraging that "fraudulent practice of taking out good, and inserting false "plugs, and that the attempt to bring gold coin to a certain "weight would be attended with bad consequence and loss to "the province."

With such a plethora of specie in the colony we may naturally expect to hear little for some time of the necessity for paper

money either in the shape of government issues, bank notes, or even *bons*. Indeed, had it not been for the retrogade political and commercial movement introduced by the Quebec Act, Canada might at this time have entered upon a period of unusual prosperity. It was the only colony in America, except perhaps Vermont, which was intimately associated with it in commerce, which had emerged from the revolutionary struggle without debt, and in a rich and prosperous condition. Chief Justice Hey, of Quebec, who was at first inclined to favor the general scheme of the Quebec Act, after observing the practical effects upon the colony, reports to the Lord Chancellor that Carleton had been most injudicious in his concessions to the seigneurs, whose elation at the restoration of their old privileges "has given "just offence to their own people, and to the English merchants; "they insist that there be no alteration in the ancient laws, par- "ticularly in the article of commerce, the whole of which is in "the hand of English merchants, without whom there was not, "and will not be, any trade." While the Act remained in force there continued to be much trouble, confusion, and impediment in legal and commercial affairs. The French Canadian mercantile law was so antiquated and obstructive that business was immensely hampered, enterprise stifled, and the merchants discouraged. Even the remedy afforded by the new constitution of 1791 was very partial. Still that constitution by its permissive clauses brought liberty to the new settlements in Upper Canada, and as Montreal existed mainly by its trade with the northern States, the new settlements in Upper Canada and the north-west fur country, it did not suffer severely from the shackles which continued to bind the province in which it was situated. It also communicated considerable life to the city of Quebec, which, being the chief seaport of the country, likewise derived considerable advantage for a time from the timber and ship building industry which connected it with the outer world.

However, as the Constitutional Act of 1791, and the beginning of the settlements in the western country, bring us to a new point of departure in the history of Canada, we may reserve our considerations of the currency and exchange features of that period for the next article.

ADAM SHORTT

QUEEN'S UNIVERSITY, Kingston

SURETIES AND SECURITIES

READ AT THE MEETING OF THE CANADIAN BANKERS' ASSOCIATION HELD IN OTTAWA, SEPTEMBER 10TH, 1896

WHEN the contract of guaranty or suretyship has been formed and the relationship of principal, surety and creditor established, the rights and positions of the parties are governed, not only by the contract itself, but also by the general law, which has practically been built up from time to time by numerous judicial decisions supplemented in a few cases by statutory enactments.

The contract entered into by the drawer or indorser of a bill depends, not upon the express terms of his written contract, but upon the law merchant, and in speaking of the contract of guaranty or suretyship I refer, not to the contract of a drawer or indorser, but to the special contract which one enters into when he agrees "to answer for the debt, default or miscarriage of another."

The drawer or indorser of a bill of exchange is not strictly a surety for the acceptor. When the bill matures and is dishonored, and when the drawer or indorser gets due notice of the dishonor, his liability to the holder becomes absolute and is that of a principal.

During the currency of the bill the drawer or indorser does not occupy the position of surety for the acceptor, and has no equity to prevent the holder from dealing as he may deem best with the acceptor or other parties to the bill, or with securities received from them, provided he does not thereby prevent himself from giving notice of dishonor, so as to give the drawer and indorser their remedies against the parties liable on the bill in priority to them, but after the maturity and dishonor of the bill the drawer or indorser is in the nature of a surety for the acceptor, and, speaking generally, and omitting the special rights and liabilities under the law merchant upon or relating to the bill itself, it would be wise to assume for practical purposes

that the principles governing the rights and liabilities of a creditor and surety as between themselves with respect to the principal and to securities received from the principal, and with respect to the discharge of the surety, will apply, but the precise extent to which those principles do apply has not yet been finally determined.*

The subject of suretyship is one upon which numerous and conflicting decisions have been given, not only in relation to the construction of the contract itself, but in relation to the rights and liabilities of the parties connected with it. The creditor has rights against the surety; the surety has rights against the creditor; the surety has rights against the principal; sureties have rights among themselves; the surety may be discharged in whole or in part by the acts or omissions of the creditor. These branches of the subject are but some of its divisions, and, as the kinds of business done and the ways of doing business are constantly changing, and as new cases are constantly arising to which no previous case is entirely applicable, the difficulty of laying down any general rules or principles for the guidance of those interested in the subject will be readily seen. Yet there are certain matters of practical and every-day interest to banks upon which some general explanations will be useful.

The contract of guaranty or suretyship which a bank holds is generally carefully drawn, and not much difficulty arises in determining the rights of the bank under it; bank managers as a rule know what those rights are. It is usually with reference to the rights of the surety against the bank, and to the discharge of the surety by acts or omissions of the bank, that their information is deficient, and it is upon these points that I propose to make some practical explanations and give some practical advice.

It must be always borne in mind that if the contract itself makes provision relating to the matters which are about to be explained, such provision must govern, even though the rights, which the surety or the bank would otherwise have, be thereby enlarged or diminished.

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*See note at the end of this article.

A bank frequently and unwittingly infringes the rights of a surety, and thereby releases him in whole or part from his liability, by the way in which, after the relation of principal and surety has been established, it deals with the principal and with the other securities which it may have received from him.

In a paper upon dissolutions of partnership read last year at the meeting of the Association in Quebec I explained the reasons why a surety was discharged, if without his consent, the creditor by a binding agreement gave time to the principal for payment of the debt. I will be pardoned if I repeat them here.

As a rule, and subject to certain exceptions, some of which will be shortly explained, a surety is discharged if the creditor in a binding way and without the surety's consent gives time for payment to the principal debtor. The reason for this is that one of the most important rights possessed by the surety has been interfered with. He has the right so soon as the debt matures, and even before the creditor demands payment, to compel the principal by proceedings in court to discharge the debt and thus relieve him from his liability as surety. If the creditor without his consent in some binding way extends the time for payment of the debt, the surety cannot till the extension expires compel the principal to relieve him. This being an injustice to the surety brought about by the act of the creditor, the law relieves the surety at once, and his liability to the creditor is discharged. The result does not depend upon whether or not the surety is really prejudiced by the extension; a right of his has been interfered with, and no enquiry can be made as to the actual value to him of this right.

Another reason is that the terms of the obligation, for the carrying out of which the surety became responsible, have without his consent been changed so that such obligation no longer exists and there is nothing left covered by the surety's contract. The liability of a surety depends entirely upon his contract; the creditor's claim against him is *strictissimi juris;* his liability cannot without his consent be extended beyond the scope of his contract, and his rights are carefully guarded by the law. But, if in the instrument giving the time, or by collateral agreement made at the same time, the creditor expressly reserves all rights against the surety, the latter will not be discharged. The reason

for this is that the effect of such a reservation enables the creditor, if he so desires, to proceed at once against the surety, and in turn it enables the surety to proceed at once against the debtor, and the reservation of rights against the surety so qualifies the effect of the extension of time as to keep alive, so far as regards the surety, the original obligation of the principal, and to preserve the creditor's rights under the contract of suretyship. This principle is now so well recognized in our law that there is no difficulty in arranging to give time to the principal debtor and yet not discharge the surety; the real danger when making arrangements with the principal without the consent of the surety, is that the liability of the principal himself may not be preserved in its original form, and there may be so material a change in the nature of that liability that the surety, unless his contract allows it, will be discharged; no reservation of rights will in such a case prevail. A familiar instance of this is where there has been a novation, and the liability of one person accepted in lieu of that of another.

There are other modes of dealing with the principal which will discharge the surety, but as they are not of constant or even frequent occurrence in practical banking, it would unnecessarily occupy time to refer to them here.

The creditor's dealings with securities are, of course, of practical importance and constant occurrence. It may be stated generally that a surety is entitled to the benefit of all securities received by the creditor from the principal in respect of the same debt, whether such securities were received before or after the contract of suretyship was made, and whether the surety knew or did not know of their existence. This right does not depend upon the contract, although the contract may, if the parties think fit, make provision respecting it. The right results from the equitable principles involved in the relationship of the parties. It is equitable that the property of the principal pledged for the payment of the debt should be applied by the creditor for that purpose; it is grossly inequitable that it should be diverted from such purpose and the payment of the debt thrown upon the surety. This right to the benefit of securities, held by the creditor, casts upon the latter certain duties towards the surety, and, if they be neglected, the surety will be dis-

charged in whole or in part, according to the circumstances. The creditor occupies a position analogous to that of trustee for the surety, of the securities of which he is entitled to the benefit, and it is his duty to conserve these securities in a prudent and reasonable way, and not to be guilty of negligence with respect to their realization.

If the existence or subsequent taking of the security formed no part of the contract of suretyship, or was not so in the contemplation of the parties as to make the existence or taking of the security a material consideration in making the contract, then if, by the improper act or omission of the creditor, the benefit of the security be lost to the surety, he is discharged only to the extent to which he is thereby injured, as it is the fact of his injury in such a case which entitles him to complain, and his complaint must be confined to the extent of the injury; but if the existence or subsequent taking of the security be made a part of the contract, or be a material consideration in the making of it, then if by the improper act or omission of the creditor the benefit of the security be lost to the surety he is wholly discharged, not because of the injury in amount which he sustains, but because the creditor himself has committed a breach of the contract with the surety, or has so altered the position of the parties, and his contract with the principal, that he cannot on his part carry it out as it existed when the contract of suretyship was made.

The principles involved are well illustrated by the case of *Union Bank v. O'Gara*, reported in 22 Canada Supreme Court Reports, page 404, also reported at page 290, vol. I, of the JOURNAL of the Association. The real difficulty in that case arose upon the questions of fact, and although there was a difference of opinion among the judges as to the result, their views as to the law would not probably have differed had the facts been free from doubt. The action was brought by the bank against Mr. O'Gara as endorser of certain notes made by a firm who had a contract with a railway company for the construction of a portion of its line, and upon which notes the contractors had obtained money from the bank. In the judgment concurred in by the majority of the court the facts are in effect thus stated:

O'Gara indorsed the notes in question upon the understanding, not only between himself and the contractors, but also with the manager of the bank itself, that all the monies payable to the contractors under the contract were to be paid, not to them directly, but to the bank. From these monies the contractors were to be at liberty to draw whatever was necessary to carry on the work, but any surplus was to remain in the bank as security for the payment of the notes indorsed by O'Gara. During the progress of the work the railway company made certain payments, not to the bank or the contractors, but for which it claimed credit from the contractors; disputes arose as to the railway company's right to deduct these payments, and for certain considerations the bank and the contractors ratified them. This ratification was made without O'Gara's consent, and he contended that certain of the payments were such as the railway company had no right to credit for, and he claimed that, having by the ratification in effect given up to the company monies to which the bank was entitled, and which, if received, would have been applied on the notes, and this being in breach of the understanding or agreement upon which he indorsed the notes, he as indorser or surety was wholly discharged.

The court, in accordance with well settled principles, held that the subsequent ratification of the payments had the same effect as if the bank had agreed to them before they were made. They held also that for certain of the payments the company would not have been entitled to credit but for the ratification, and the learned judge who delivered the judgment says: "This "was a clear variation of the terms of the original understanding "between the bank and Mr. O'Gara in regard to the equitable "assignment (of the monies in question), upon the faith of which "he made the indorsement. It this is the correct view the "principles of law applicable to the case are not in the least "difficult. Any material variation in the terms of the original "contract made between the principal debtor and the creditor "will discharge the surety. If it clearly appears that the surety "became surety on the faith of the original contract, he is like-"wise discharged irrespective of the question of materiality. "*A fortiori* must this be so where, as in the present case, the

"surety actually stipulates that securities shall be given to the "creditor, and the creditor, without the assent of the surety, sub- "sequently relinquishes such securities . . . . The con- "tention that if there was a release at all it was a release *pro* "*tanto* only, does not, I think, apply. The principle, I take it, "is that there is a total discharge where there is any variation "by the creditor in a contract upon the faith of which the surety "entered into his obligation. Where, however, the creditor has "assets or securities in his hands (the surety having no connec- "tion with them) which may be applied by the creditor in re- "duction of the debt secured, any improper or careless dealing "in respect of such securities may discharge the surety to the "extent of the loss occasioned thereby."

So far it has been assumed that the liability of the surety was for the whole debt, but probably the most frequent case in practice is that in which the surety's liability is limited to part of the debt, and where the creditor holds securities from the principal which are applicable to the whole or to a greater part of the debt. What are the surety's rights in such a case, and what must the bank do in order to protect its own rights?

In the first place it must be borne in mind that the surety has no rights with respect to the securities, unless they cover that part of the debt for which he is liable, and it must also be borne in mind that unless it be provided for by his contract, the surety cannot control the terms upon which the security is given to the creditor; therefore if, when the security is taken, it be appropriated to the payment of a particular part of the debt for which the surety is not liable, he is not entitled to the benefit of that security; and if, when the security is taken, the principal and creditor agree that the creditor may himself appropriate the security or its proceeds to such part of the indebtedness as he may think proper, and if he does appropriate it to a part for which the surety is not liable, the surety is not entitled to the benefit of the security, unless possibly to the extent of any surplus. But if the security be given generally for the whole indebtedness, or for a portion, including that for which the surety is liable, then the surety acquires a certain interest in it with respect to the part for which he is liable.

Before explaining his rights in this respect, I wish to point

out, as a matter of great practical importance, the necessity of providing, as far as possible, when taking a general security, that the bank shall have the right to appropriate it and its proceeds, to such part or parts of the indebtedness as it thinks fit, whether the same be otherwise secured or not, and whether or not the bank holds therefor the liability of any other person or surety under any guarantee, indorsement, bond, or otherwise, and whether then existing or thereafter taken. The importance of having this right of appropriation is apparent when it is remembered that, if a surety is once entitled to the benefit of a security, the creditor cannot, without his consent, divert it or apply its proceeds in payment of an unsecured part of the claim.

If, after the surety has paid his portion of the debt, a portion still remains unpaid, the creditor cannot be compelled to hand over to the surety the security applicable to this unpaid portion, nor is he bound to sever the security and hand over or assign a part corresponding to the amount paid by the surety; the right of the creditor to retain and collect or realize upon the security remains, subject, however, to a liability to account to the surety with regard to the realization and for his proper proportion of the proceeds.

It has been held in the United States that if there be two distinct debts and a distinct security be given for each, and if then for one of these debts, and with knowledge of the other, a guarantor becomes liable, and if both debts be overdue, the guarantor cannot, on payment of the debt for which he is liable, compel the creditor to hand him over the security held for that debt, so long as the other debt remains unpaid. In the case referred to the court said that, as against the principal, the creditor could tack his claims together and retain all securities till both claims were paid, and that, although a surety upon paying the debt is entitled to all securities held by the creditor, yet this was only, "Provided the creditor has no lien upon "them, or right to make them available against the principal, "to enforce the payment of a debt different from that which "the surety has paid, but if the creditor has such a right, and "one arising out of the transaction itself of which the surety-"ship forms a part, then the right of the surety to the benefit

" of these securities, is subordinate to the right of the creditor " to make them available for the payment of his other claims, " and can only be made available after this paramount right is " satisfied."

This would probably be the law of England also in the precise case put, but if special circumstances intervened, rendering it inequitable for the creditor, as against the surety, to tack his claims, the surety would no doubt get relief; for instance, if the existence of the security were a material consideration in the making of the contract, and if the surety did not know of the other debt, or if the other debt arose since the contract of suretyship was made, it would probably be held that the creditor's right to tack as against the surety would not exist.

In the absence of an express agreement with the surety providing that the creditor shall first exhaust his securities before calling on the surety for payment, the surety cannot compel the creditor to look to his securities first. In order to get the benefit of the securities he must first pay the debt; then, and not till then, is he entitled to have the securities enforced. I understand, however, that a different rule prevails in the province of Quebec.

It will be seen from what has been explained, that more or less danger to a bank's position always attends any dealings with the principal relating to the debt or obligation guaranteed, and any dealings with securities received from the principal and applicable to that debt or obligation. An eminent judge in England said in a reported case: " The true rule in my opinion " is that if there is any agreement between the principals with " reference to the contract guaranteed, the surety ought to be " consulted;" and " If it is not self-evident that the alteration " is unsubstantial, or one that cannot be prejudicial to the " surety, the court will not in an action against the surety go "into an enquiry as to the effect of the alteration."

Lord Chancellor Westbury said: " Now it must always " be recollected in what manner a surety is bound. You bind " him to the letter of his engagement; beyond the proper inter- " pretation of that engagement you have no hold upon him. " He receives no benefit and no consideration. He is bound

"therefore merely according to the proper meaning and effect "of the written engagement he has entered into. If that writ- "ten engagement is altered in a single line, no matter whether "it be altered for his benefit, no matter whether the alteration "be innocently made, he has a right to say, 'The contract is "'no longer that for which I engaged to be surety; you have "'put an end to the contract that I guaranteed, and my obliga- "'tion therefore is at an end.'"

The only practical advice which I can offer to bank managers, to guide them when contemplating any dealings with a debtor respecting the debt for which a guarantor or surety is liable, or when contemplating any dealings with securities held for such debt is, "Consult the solicitor."

Z. A. LASH

September 10, 1896

NOTE.—The position of the drawer or indorser of a bill of exchange, discussed in the opening portion of the foregoing article, is a point of such importance to banks that it is thought well to print in full the following extracts from the judgments of the House of Lords in the case of *Duncan Fox & Co. v. North and South Wales Bank*, reported in Law Reports 6, Appeal Cases:

The LORD CHANCELLOR (Lord Selborne).—"But I think that the principles deducible from all the authorities lead necessarily to the conclusion that, under circumstances like the present, the equity between the indorser and the acceptor is the same as that between a surety and a principal debtor when the creditor is not a party to the contract of suretyship. That equity, according to my view of it, need not interfere with the ordinary operation of such a general covering security as that given by Samuel Collins Radford to the North and South Wales Bank, during the continuance of the dealings between the secured creditor and the acceptor of bills not overdue, which the creditor may hold or part with as he pleases. It will not incapacitate bankers who may hold such a bill, accepted by a customer and indorsed by a third party, from carrying on their dealings with that customer, by varying the securities received from him according to the ordinary course of those dealings, as long as he remains solvent and before the acceptance has been dishonored. It will not, in my opinion, tend to paralyze the business of discounting bills of exchange. But it is an equity which, in my judgment, does certainly attach, when the bills, overdue and dishonored, and the securities are found together in the hands of the secured creditor, at the time when he requires payment from the indorser; when the creditor has no other transactions then depending with the customer, and no claim upon the securities except for the bills themselves; and when the competition is between the indorser and the acceptor only."

LORD BLACKBURN.—"I think it is clear that they [the indorsers] have no such right [*i.e.*, to the benefit of securities] by contract. They did not at the time when they got the bills discounted at the bankers so much as know that the bank held any security from Samuel Radford & Sons, and of course, that being the case, made no express stipulation about it; and there is nothing in the nature of an indorsement for value to give the indorser any

right, during the currency of the bill, to any security which either his immediate indorsee or any other holder of the bill, may have from any party to the bill. The indorser by the law merchant, is liable, on having due notice of dishonor, to pay the amount of the bill to the holder for the time being, on having the bill restored to him; but till the bill is dishonored there is nothing to prevent the party who may be the holder for the time being indorsing it, even without recourse, so as to make it impossible that he can ever be the person to whom the prior indorser will have to pay the bill. I think, therefore, with the Lords Justices, that there is neither principle nor authority for saying that the indorsers are, during the currency of the bill, sureties, or in the nature of sureties to the indorsee, or that they have any equity to prevent the endorsee from dealing as it may seem to him most desirable with any other parties, unless thereby he prevents himself from giving notice of dishonor, so as to give them their remedy against prior parties to the bill; and I agree with them in thinking that any contrary decision would be very mischievous.

"But though the indorsers had no such right by contract, yet after the bills were dishonored and notice of dishonor had been given to the indorsers, the position of the parties is altered. Though the indorser is primarily liable as principal on the bill, and is not strictly a surety for the acceptor, he has this in common with a surety for the acceptor, that he is entitled to the benefit of all payments made by the acceptor, and is entitled, on paying the holder, to be put in a situation to have a right to sue the acceptor."

LORD WATSON.—"It does not appear to me that the broad proposition maintained by the appellants at the Bar of the House and elsewhere, to the effect that the indorser of a bill of exchange becomes entitled, in a question with the holder, to the same equities as if he had been a proper surety for the acceptor, has any foundation in law. To give these equities to an indorser before the bill falls due would, in my opinion, be inconsistent with the nature of a bill of exchange, and the rights and obligations which it creates in favor of and against the parties to it; and I entirely agree with the observations of the Master of the Rolls upon the grave inconveniences to which bankers and merchants would be exposed by the introduction of such a principle, so far as these observations apply to the period of the bill's currency.

I have only to add that, whilst it is my opinion that the indorser is not in the likeness, and therefore cannot claim the equities of a surety, so long as the bill is current, I am not prepared to hold that he becomes necessarily, and in all circumstances, entitled to these equities whenever the bill matures. It is possible that, after maturity, the holder of the bill may have such interest, arising from his relations with the acceptor, as will entitle him even then to deal with his securities without respect to the interests of the indorser. But the solution of these questions is unnecessary for the disposal of the present case."

A METHOD OF BOOK-KEEPING FOR A COUNTRY BANK AGENCY, WITH SUGGESTIONS FOR RETURNS TO HEAD OFFICE*

BEING THE ESSAY IN COMPETITION II (1896) TO WHICH THE FIRST PRIZE WAS AWARDED

"WE have no horror of numerous branches," writes that eminent authority, the late J. W. Gilbart, in his "History, Principles and Practice of Banking." "When we see that "the largest and most prosperous banks have each a large num- "ber of branches, we are led to believe that branches are not "attended with any dangers which cannot be overcome by wise "administration. At the same time we are ready to admit that "numerous branches require a peculiar mode of government "and a rigid system of discipline. . . Each branch must have "a good system of book-keeping and the system must be uniform "at every branch. . . Weekly returns must be made to the "head office of all the transactions, and a half-yearly balance "sheet attended with full supplementary details. . . "Branches should always be kept in strict subordination to the "head office."

Years of successful operation in Canada have demonstrated that not only are branch banks feasible, but that their existence is of mutual benefit to the central institution and to the communities amongst which they do business; and experience has served to emphasise the essentials pointed out by Gilbart—that a good and uniform system of book-keeping must be in use throughout all branches, and that, for the success of the whole, one office must be recognized as chief. This—recognizing economy as a feature of success—should not only possess powers of supervision, but, in addition, should act as a kind of

*Attention is directed to the addenda as illustrating the text of the essay.

clearing house for all branches. On such an assumption has the present paper been based, since it is natural to suppose that an agency, possessing not even so much autonomy as a branch, should be in very constant and close touch with the recognized head office.

Dependence of this character, however, does not imply deprivation of banking functions. On the contrary, an agency of a sound bank will have business along the same lines as the head office itself, differing only in quality and extent. "Country "banks are banks of deposit, banks of discount, and banks of "remittance; many of them are also banks of circulation," writes Gilbart in another place. To these functions the smallest agency of a banking institution can lay claim. The credit of the bank as a whole, and the class of local customers, will govern its business in deposits and remittance; the needs of the business community, with the "line of discount" allowed by the chief management, will govern its discounting business; while the privilege accorded the whole institution of issuing notes will give it rank in a minor degree as a bank of circulation. Such being the case, it is apparent that a method of book-keeping must make adequate provision for all classes of business, for while the volume of business may be small in comparison with a central office—which will permit of condensation in book-entry—the majority of the transactions will be of a similar nature in each.

Method is defined as "such a natural, regular or systema-"tic disposition of things or parts as results in homogeneity," and no words could better express the aim and object of book-keeping, especially when applied to banking practice. To produce definite, accurate results with ease and rapidity, and class such side by side in the balance sheet of the bank, is the great test of book-keeping methods. That they should be simple, goes without saying; that they should be elastic, and respond readily to any sudden demand of increased business, is essential; and that they should be in accord with well known broad principles is a necessity for dealing with any difficulties that may arise. What they are under ideal conditions is well given by Mr. Geo. Rae in his "Country Banker," wherein he says: "The routine of a bank, to a large extent, is automatic,

"and is usually framed on the simplest and most direct methods "of doing those things which have to be done swiftly and effec- "tually. Superfluity of record, and excess of books and book- "entry only puzzle the brain, lengthen the hours of office-work, "and multiply the chances of error."

It is obviously impossible to decide as to the number of officers which a country agency should have, so much depending upon unknown circumstances; but, for present purposes, it will be sufficient to suppose that three compose the staff—the agent, whose duties will embrace correspondence and a certain amount of book-work—a teller in charge of cash, bills, etc., and another officer whose duties are of a more general nature. It must be understood, however, that the books are to be considered in a departmental sense rather than as being under the care of any one officer.

By applying Mr. Rae's ideas as to how work ought to be done to Mr. Gilbart's statement of what has to be done, it is possible to obtain a general view of what books a bank agency must use in order to cope with business offering. As a "bank of deposit" it is expected and will undertake to receive sums of money from clients, and to pay them out on demand upon the depositor's written order. This will necessitate the keeping of ledger accounts so that the exact relation of the bank and each customer may, at a glance, be determined. For the other class of deposits, "time deposits," which the bank does not agree to pay away at any time or in any sums, a separate register will be needed, which will operate as the one account between the bank and the public. All money received, or money paid out, will of necessity be recorded in a cash book. As a "bank of discount" a full record of all bills upon which money has been advanced must be kept, and provision made for their presentment at maturity; while similar means must be adopted to ensure care over all paper left with the bank as agent. That instant reference may be made to the condition of a borrower's liability, accounts with all from whom paper has been bought must be opened. As a "bank of remittance" the agency must be prepared to issue drafts payable at points over the whole world, and to see that such steps are taken that these may be duly honored on presentation. This will necessitate well-ordered

correspondence and regular communication with the head office, through which medium balances will be struck and settled. As a "bank of circulation" it will be entirely dependent upon the head office, which will probably have assumed the sole responsibility of redeeming notes, though the agency will receive and pay them as cash.

The one place in which these functions resolve themselves into orderly and relative comparison is the balance sheet. Primarily, this is a statement of the amount at debit or credit of the various accounts under which the bank classes its business—a "trial balance" in mercantile language. Naturally, it is founded on the double-entry system of book-keeping—"that science, based "upon true mathematical principles, all the elements composing "which so interwoven that a derangement of one can be traced "by the effect upon the others." In principle, the bank debits itself and credits its various accounts for all sums received by or deposited with it; and credits itself and debits its accounts for all sums advanced or paid out by it. The many ways in which daily transactions are sub-divided often obscure this fact, but, when all are finally summarised in the balance-sheet, the truth becomes apparent. As a striking example of sub-division the care of depositors' accounts—"Current Accounts"—may be instanced. These may furnish by far the greater part of daily work, but only the final result—the total of all balances—finds its way to the balance-sheet as "Deposits on Demand." These individual accounts are, in fact, kept on the single-entry principle of book-keeping. So it is possible to sub-divide any account as often as may be necessary for the accurate handling of minor items, and yet have only one exact total appear when all is done.

The Balance Sheet

The preponderance of business under "Current Accounts," contrasted with the more important, perhaps, but less voluminous work on other accounts, permits the drawing of a sharp distinction, and the classing of all others as "Miscellaneous"—a distinction which may be adhered to with advantage throughout. There is no single standard by which the books containing these accounts are named. Nomenclature varies in every bank, and the only system herein adopted is to use the name which seems best to convey the

Division of Accounts

purpose of the book. Where ledgers are spoken of, it is understood that such are kept on the progressive or columnar principle, *i.e.*, with amounts shown in columns side by side, the left hand column for debit, the right hand for credit entries, a third for the balance (debit or credit), and a fourth, when necessary, for calculation of interest.

Reverting again to distinctive functions, in deposit business the medium of intercourse between the public and the bank is found in the teller's department. The work here necessitates a Teller's Cash Book,[1] showing the cash on hand when the day's business is begun, the various transactions during the day, and the cash on hand at the close. For every entry made, there must be a corresponding voucher, either "Miscellaneous" or "Current Account." To preserve this distinction the book is ruled journal-wise—with two cash columns on the right hand side of each page—in the outer of which current account items are carefully kept, while in the inner all other vouchers are entered. When the book is open the credit page is to the left, the debit to the right.

Teller's Cash Book

Since it is the practice to receive "Current Account" deposits under a customer's signature and only to pay away money from his account on his written order—his cheque—it may be laid down as a rule that no entry is to be made in the Current Account Ledger without a corresponding voucher. Should it be necessary to credit an account with money not received over the counter, a "docket," or "slip," must be prepared showing particulars, and similarly with entries to the debit. In this way a uniform method of posting the Current Account Ledger[2] is adopted and the doubtful one of posting accounts from books and vouchers avoided. By observing this rule an authoritative voucher can be found on file when required. The day's vouchers having passed from the teller are posted to the respective accounts, are then sorted in order and again passed on to what is variously known as a "Clean Cash Book," "Waste Book," "Check Ledger," or "Current Account Day Book."[3] This is a recapitulation of the accounts operated upon, showing names and

Current Account Ledger

Current Account Day Book

[1] Specimen ruling on p. 175; [2] p. 175; [3] p. 176.

amounts to debit or credit. If all the vouchers have passed through the Teller's Cash Book, it is clear that the totals —debit and credit—of the former will agree with the total of the current account columns in this. From the Current Account Day Book the Ledger is "called over" and the postings so checked. By subdividing it also to correspond with subdivisions of the Ledger, it is easy to balance each Ledger subdivision separately, and so economise time in searching for errors. The Ledger is balanced periodically—say twice a month, if it is the practice to mark cheques before paying them; when otherwise, it is usual to balance daily.

Ledger Balance Book The Balance Book—either for daily or periodical balances—is best kept on the horizontal principle, by which a name written to the extreme left of a folio is an index to debit or credit columns across the two pages. Essential auxiliaries to the Ledger are the customers' pass books, the preferable method of writing up which

Pass Book is from the vouchers themselves, but, as marked cheques are likely to be taken away for some time, the usual practice is to make a copy of the account. A record of all paid cheques, returned to the drawer, should be made in the pass book, and a formal receipt taken for the same.

In direct subordination to the teller's department are the Registers of Deposit Receipts and Certificates of

Deposit Receipt Register Deposit, in which a full description is entered from the signed requisition slip ere a receipt is issued. A "Paid Register" is also provided, in which all receipts as they are returned are entered and ticked off with the original entry. Side by side with

Drafts Register these is a Register of Drafts Issued, subdivided again into Sterling Drafts, Drafts on Agents and Drafts on Branches. The name of payee, place of payment, amount, and exchange charged are the particulars to be emphasised. With the exception of Letters of Credit Advised, or

Drafts Advised Drafts Advised, the teller's department keeps no other records. These are entered up from the Advice Sheets received and written off as the drafts are paid.

Specification of Cash A book for Specification of Cash, setting forth amount of gold and silver held, denominations of notes and

number of each, with any other necessary particulars, assists the teller in "making up" his cash.

It is chiefly as a "bank of discount" that a country agency expects to pay expenses and make a profit. The "paper" it buys is of two kinds, the "discount," bearing two or more names—drawer and acceptor, or promissor and endorser—and the "loan," a simple note of hand, secured or unsecured. The latter style of advance having almost entirely superseded that of the "overdraft" or "cash credit" in Canada, is considered as covering these terms. However classed it is necessary to keep a full and true description of all paper taken, and for this purpose two Registers are provided—a Discount Register and a Loan Register.[1] In the first the bills are numbered consecutively and particulars entered under columns to show: date bought, number, for whom discounted, acceptor, other endorsers, where payable, amount, daily total, date, term, due date, rate, interest, commission charged. Bills on foreign points should be marked clearly with the bank's stamp and a special account "Bills Remitted," credited, and its contra "Bills Paid," debited with each remittance, and entries made on these accounts when advice of payment is received. For each batch of bills discounted a "discount slip" should be worked, independently of the book entry, to check calculations, and another slip made out to credit the customer's account in the Current Account Ledger. From the original discount slip a duplicate, so often asked for, can be made by using a piece of carbon paper. The Loan Register is also a true copy of each note, with an additional space for "security held." Allied to these records and of great importance is the Liabilities Ledger.[2] This is designed to show at a glance the indebtedness of a customer to the bank (1) as endorser, (2) as acceptor. When a customer receives money on a discount or loan the gross amount is posted to his debit as endorser; when his name appears in another capacity the gross amount is posted to his debit as acceptor. At maturity the amounts are posted to his credit from the Bill Diary, though some of the largest discount houses adopt the simple plan of ruling the entries

Discount and Loan Register, Liability Ledger

[1] Specimen ruling on p. 177; [2] p. 178.

through in red ink as the bills mature. The Ledger should be balanced at least once a month, the endorser side against the total amount of Loans and Bills Discounted, the acceptor side against the total of Bills Discounted only.

Of a similar nature, and requiring to a certain extent similar treatment, are bills left with a bank to be collected for customers, branches or correspondents. These may be either local or foreign bills, and are distinguished as Bills Lodged and Bills sent for Collection. Two Registers,[1] bearing these names, will suffice for the business of an agency. That for Bills Lodged serves as a record for every bill, whether accepted or unaccepted, to be cared for at maturity by the agency. It should show the bills numbered consecutively as received, with owner's name, owner's number, if a correspondent, bank, drawee, term, when accepted, due date, amount, remarks. Sometimes, when number justifies it, a subsidiary book for sight or short date items, is used with advantage. The Bills for Collection Register is very similar, showing, in addition, place of payment, and date when paid. If desired, the exact amount of such bills on hand can be shown by crediting the daily total to accounts for Bills Lodged and Bills for Collection, or both combined, and debiting them with bills paid or returned. By the use of these and their contra accounts, a showing will be made in the balance sheet of the volume of business so transacted.

Bills Lodged and Bills sent for Collection Registers

Provision has also to be made for a class of bills, bought by the bank on foreign points, at such usance as to preclude their being passed direct to the debit of a branch or correspondent, while, at the same time, it may not be desirable to discount them. Very often these have documents attached, or are drawn in such currency as only enables an approximate estimate of their value to be made until returns are received. They are debited to an account called Foreign Bills Purchased and numbered consecutively in a Register of that name, with full particulars as to drawer, drawee, place, term, due date, amount, commission charged. Particulars of any shipment to which they may refer should be given, and a column added for that purpose where necessary.

Foreign Bills Purchased

[1] Specimen ruling on p. 176.

From the Registers, all bills, local or foreign, find their way into the Bill Diary under their respective due dates. But this is more than a simple memorandum of maturities. It is designed to show the exact class of paper, and indicate the owner without reference either to bills or registers, yet permit of instant reference to these if desired. The Diary is either subdivided for local and foreign paper maturing, or two are kept so distinguished. Each day is again subdivided for the different classes of bills. The Local Diary[1] will show discounts, loans and bills lodged; the Foreign Diary, bills for collection, bills remitted and foreign bills purchased. The former will provide, if a discount or loan, for number, acceptor, amount, how disposed of; in the case of a bill lodged it will provide for number, owner, owner's number, amount, commission charged, net proceeds. A column for place where payable, and date when paid, will be added for the Foreign Diary. Outstanding bills in this should always agree with the balances on the contra accounts, bills remitted and bills for collection, already referred to.

Bill Diaries

It is sometimes advisable to class bills lodged or others as collateral bills; in which case they are placed in a register under that name, particulars being shown as in similar registers. They are afterwards posted under the customer's name in a Collateral Bill Ledger to show acceptors, amounts, and due dates. When paid, these accounts are credited, and the loan presumably reduced correspondingly.

Collateral Bill Register

The Bill Case is the last resting place of all paper until the day of maturity. Each day's bills inward are sorted away in order of dates, and all due taken out and held for payment. Needless to say the Bill Case ranks in importance with the cash reserves.

Bill Case

Unfortunately, however, the day of maturity does not always see all paper settled, and too frequently a note or acceptance becomes that hated object, a "past due bill." If the bank be merely a collection agent, its interest ceases when it has carried out instructions as to

Past Due Bills

[1] Specimen ruling on p. 178.

protest or return; if it be an interested party it will have to take steps to secure payment. The account for bills discounted should be credited with all the local bills maturing each day, and any unpaid should be debited to past due bills account and registered as such. This prevents any rule-of-thumb method of endorsers waiving protest, and then taking up the bill at their leisure, besides furnishing the agency with a "black list" for future reference.

In any bank, and more especially a country one, direct personal contact with customers does not furnish the entire business, nor perhaps the largest proportion of it. Correspondence matters have to be reckoned with, and these will increase as the business already considered has to be furthered or finished. Transactions of this nature will be independent of actual cash, and since "every debit requires its credit" it follows that they are capable of being journalized. The book, practically a journal, which receives such entries is similar in all respects to the Teller's Cash Book, and may be appropriately termed an Accountant's Cash Book.[1] There is this fundamental difference, however, that the latter is a book of reference, and the entries in it are used as a record, while the vouchers are practically the true record of the teller's work. This book is, moreover, a record of all transfers on the various accounts, and, in short, *everything* which does not pass into the hands of the teller is entered in the Accountant's Cash Book in sufficient detail to explain the transaction. In accordance with the rule, slips will be passed, in addition, for all transactions shown on current accounts. Obviously, if the work be correctly done the day's total of credits will agree with the total of debits.

Accountant's Cash Book

Since the head office is the medium of settlement between all branches and agencies, the account with it will absorb the largest proportion of the agency's correspondence business. For everything that the agency transmits direct to other branches or agents it will debit head office, and credit it with everything received. The way in which all such transactions are recorded for the head office is upon a specially prepared schedule, which

[1] Specimen ruling on p. 175.

has also to be uniform at all branches. It may be perforated if necessary for head office purposes, so as to furnish a debit and credit list separately. In any case, one part should, under the heading "Credit X Agency," recite the various cash items remitted, any paid bills of which advice has been received, total drafts of other branches paid, etc. Under the heading "Debit X Agency" should be given all cash remittances received, all collections made for branches or agents, total of draft advice sheets sent, etc. The whole is practically a summary of correspondence results between the agency and all other points. The Teller's vouchers, the Bill Diary and the Accountant's Cash Book are its main feeders. It is, before being despatched, copied into a letter book kept for that purpose.

Having in the foregoing considered the channels in which the day's business flows, it becomes necessary to see how these are directed so as to form practical and concise issues. No order has appeared to govern business except in the handling of it; and the net results so far are a bundle of vouchers, and a mass of book-entries. The current account vouchers, it is true, have been followed to their goal, but the remaining entries have yet to be disposed of. This is done by means of a

Day Book

Day Book[1] ("miscellaneous"), the function of which is to prepare transactions for entry in one total into the General Ledger. To some extent this work is a repetition of what has already appeared in the Accountant's Cash Book, gathering, as it does, the various scattered items under the headings to which they belong, but the systematised result more than makes amends for the trouble. Indeed, so much importance is attached to the book by the majority of the Scotch banks that exact copies of each day's transactions are forwarded to the head office. In ruling it may be exactly similar to the Cash Books, one column, the inner, being used for details, the outer, for extended totals, and, as in the other cases, the credit page is to the left, the debit to the right hand. For each day's work the pages are spaced into as many General Ledger headings as have covered transactions, and the day's items under each extended in one total. The great rule which governs the book is that *no entries*

[1] Specimen ruling on p. 175.

are made in it from vouchers, but from all the other records which have been made. These sources are: (1) the books subsidiary to the teller's department, as the Deposit Receipt and Drafts Issued Registers; (2) the Diary, for the day's bills paid; (3) the Registers of Loans and Discounts, the totals only of bills, interest and commission being taken; (4) the entries in the Accountant's Cash Book; (5) the letter-book in which the head office schedule has been copied. In this way an absolute check is established upon all the transactions of the day, even to the account with head office, for if the book "balances," it is evident that all previous entries have been properly made. When this is the case, all in the Day Book being miscellaneous items, its debit and credit totals will agree with the debit and credit totals of the miscellaneous columns in the teller's Cash Book, plus those of the Accountant's Cash Book. If to both its totals be added those of the current account Day Book—"Deposits on Demand"—to its credit side the total notes and cash on hand at opening, and to its debit side those on hand at closing, the grand totals will agree and a complete epitomized record of the day's transactions will be furnished.

General Ledger

The totals thus obtained are posted direct to the General Ledger, which contains all the accounts covering the bank's business. At the close of any day's transactions this ledger can be proved by its total debit balances agreeing with its total credit balances, so furnishing a balance sheet, the end of all system, the aid to management, and, in its condensed form of Assets and Liabilities, the encouragement of public confidence.

Savings Bank Department

Since it has been stated that all accounts are capable of being subdivided, it will be well to take note of some which can be so treated with advantage. For instance, it is now usual to provide for a Savings Bank Department, the total deposits in which will be a factor on the balance sheet. Its operations correspond exactly with those on Current Accounts, the only difference being that while the latter require a separate Current Account Day Book to record credits and debits, the similar, but far fewer, Savings Bank vouchers can be copied directly into the day book and extended in one total as with other entries. This is the only exception to the exact rule previously

laid down as to vouchers. Instead of using a ledger for this class of work, it may prove convenient to have a drawer arranged to hold numbered cards, each of which is properly ruled like a ledger account. The ordinary Savings Bank ledger suffers from what may be termed irresponsible accounts, open only for a brief period, and a drawer of cards need only contain accounts in active operation, all others being taken out and filed away as soon as closed. When balance time comes round there can be no comparison as to convenience.

Then a ledger to contain the Profit and Loss Accounts is a necessity. While the balance, according to the General Ledger, of Exchange, Interest, Commission, Charges, Stationery Accounts, etc., might be sufficient to enable the bank to arrive at definite conclusions as to profits, it is, at the same time, very convenient to know what class of business is being worked at a profit and what at a loss. These accounts would be posted from the vouchers passed by the teller and from the entries in the Accountant's Cash Book. The balances should of necessity agree with those of the General Ledger, and thus an itemized record of the increase or decrease for each day is preserved.

Profit and Loss Accounts

Similarly, when a bank issues a Credit, under which it agrees to cash certain drafts, or to provide funds for these elsewhere, it must show the total amount it is liable for in the General Ledger, and yet keep such accurate record of all drafts on each Credit as to tell at once when the Credit is exhausted, and so guard against its being overdrawn.

Credits

Cash items on other points also require a word. These, when purchased by the teller, are often entered in detail in a Remittance Register, before being sent out in the various letters, in which case this book would become another feeder for the Day Book. But it is submitted that to enumerate the cheques, etc., in the Remittance Letter, or to specify them on a slip attached and state the amount in the letter, carrying the totals, obtained in either way, to the head office schedule, thence to the Day Book, would fulfil all that is practically necessary. Each branch would respond to the full amount and make a separate debit entry for any item it found necessary to return, while the item, when received by the original remitting agency, would

Remittances

itself show the parties liable under its dishonor. All sterling items purchased should, however, be recorded with full particulars as to the parties, term, amounts in currency and sterling, and rate of exchange.

By what mechanism does an agency make use of its Profit and Loss Accounts so as to determine its earning powers, periodically? This mechanism has to be put in motion once a quarter. If Interest Account represented all interest really earned, and if such accounts as taxes, stationery, etc., could be charged against any one quarter, the question would be simple, and would resolve itself into the difference between the totals. But discount on bills maturing after the quarter, has not been really earned, and a certain amount must be due on Savings Bank Deposits and Deposit Receipts, while it is advisable to spread many expenses over the whole year. These questions of rebate of interest and proportional charges are settled by means of a Suspense or Adjusting Account. If Interest Account be debited for Rebate on Bills Discounted not due, for Interest due on Deposits, and Suspense Account credited with the same; and if Taxes, Stationery, Bank Premises, etc., be credited with the proportion written off and the amounts carried to the debit of Suspense Account, these accounts, together with such others as require no allowance, will then be in a position to be credited or debited to head office, which will assume the balance on either side, while Suspense Account continues to hold certain amounts which, at the following quarter, can be reversed to make way for others representing more exactly conditions then existing. This account also permits the carrying forward of amounts reserved to meet certain contingencies which, while not immediately pressing, are likely to become so at any time.

Suspense Account

There are still some books which bear no direct relation to the scheme formulated for the others, but which in their own province are all important. First comes the Signature Book—ever necessary for reference. Then in the correspondence department are the Telegrams Book, in which is entered every open, and a translation of every code telegram despatched or received, a register for Letters Received and one for Letters Sent. Under the more especial

Other Books

care of the Agent, are the Opinion or Character Book with its revelations, the bank's Standing Instructions Book, the Register of Securities, containing an accurate description of all collaterals held, a Treasury Book—stating the amount of specie and Dominion Notes in reserve, a Safe Custody Register—for articles left with the bank as bailee, and his own Private Memorandum Book.

Very briefly, in closing, a review of the books suggested, and the method of using them, may be presented. Business has been considered as coming through the Teller's Cash Book, where it receives its first division into current account and miscellaneous vouchers. The former have gone to their respective accounts in the Current Account Ledger, and later into the Current Account Day Book, the totals of which have been agreed with those in the corresponding columns in the Teller's Cash Book—together with totals from Accountant's Cash Book if necessary. The latter have been recorded in their various registers as Deposit Receipts, Drafts Issued, etc., and have been passed on for correspondence purposes. For every entry in the Teller's Cash Book, for every entry in the Current Account Ledger, the necessity of a corresponding voucher has been indicated. Provision has been made for recording all bills bought by the bank, or held by the bank for collection purposes, in their respective registers, and the uses of the diaries pointed out. The dependence on head office has been made use of for the purpose of passing all business pertaining to other branches or correspondents through it by means of a specially adapted schedule; and a method of journalising correspondence matters, in a manner uniform with the Teller's Cash Book, has been recommended in the Accountant's Cash Book. Over all, as a means of account, has been placed the Day Book, compiled from the records made during the day in Registers, and on the head office Schedule, its totals easily proved by comparison with the totals of the miscellaneous columns in the two Cash Books, and its debit and credit sides agreeing when the additions of opening and closing notes and cash and the totals of the Current Account Day Book have been made. Its totals again have been conveyed into the General Ledger, from which

a balance sheet of the agency can be obtained as often as required. The possibility of subdivision of the accounts in the latter has permitted the adoption of a separate ledger for Profit and Loss Accounts, and indeed, wherever subdivision is beneficial or necessary. By the use of a Suspense Account it has been shown how the last-mentioned accounts have been condensed and made to indicate the desired result for which the agency was opened.

It is scarcely to be hoped that all possible difficulties have been provided for, or even that the daily routine, as indicated, would not show some flaws when put in practice; but it is believed that the method of book-keeping suggested fulfils, to some extent, the conditions laid down in the earlier part of the paper—that it should be simple, that it should be elastic, and that it should be broad enough in its general features to cope with the ordinary wants of a country bank agency.

RETURNS

Behind every motive power which makes for usefulness must lie a guiding intelligence. The speed of the locomotive is regulated by the engineer, with his hand on the throttle and his eye on the steam gauge; the ship weathers the storm because the sailor's watchfulness has noted the falling barometer and all has been made snug; and so behind the books and book-entries of a whole banking institution lie controlling mind and hand. The embodiment of these is in the persons of the Directors and General Manager, who are entrusted by the shareholders with the general oversight and administration of the bank. What the heart is to the arterial system this management is to branches and agencies. If there is a demand for money in one quarter and a surplus in another, the cases must be adjusted; if there is a drain at one point the centre will feel it; and so, if the central administration be weak or vitiated, the inevitable results will be felt to the most outlying agency.

If, then, administration is to be capable and creditable, it can only be based upon such returns from each branch or agency as will present the condition of business vividly, concisely and reliably. When Mr. Gilbart speaks of "weekly returns of all transactions," and a "half-yearly balance sheet with full sup-

plementary details," one fears that he must have been thinking of a solitary case, and had no prophetic vision as to the possibilities of branch banking. If the object of returns be to furnish the head office with a duplicate set of books—an object of doubtful utility—all transactions might be forwarded once a week; but, if returns are to avoid beclouding the intelligence of the management with a mass of undigested details, the weekly ones must be summaries only, and a balance sheet must go forward more often than "half-yearly." If the government of an institution be by rule, if capacity be a *sine qua non* in a branch manager, and if a thorough inspection be made periodically, it is suggested that the following returns—weekly, monthly, quarterly—will be found ample.

From the consideration of these may be left out the requirements of the Bank Act, set forth in paragraph 85, and involving the use of schedule "D," as appended thereto. Whatever else may be supplied by the branches, this must be transmitted to head office, in order that the condition of the institution may be laid before the Minister of Finance and Receiver-General in accordance with law.

If the bank is in the habit of "balancing" weekly, an agency can transmit a copy of its balance sheet at the end of each week; but, if otherwise, then it must be furnished twice a month. However, with or without a balance sheet, a daily abstract[1] should be sent. This is kept on the horizontal principle, and will show six days, for each day the balance recorded by the General Ledger on demand deposits, time deposits, other immediate liabilities, head office, loans, bills discounted, past due bills, specie, Dominion notes (the two latter being cash on hand), own notes on hand. The entries for six days having been footed, the totals of the previous week are placed underneath, and the increase or decrease shown in separate columns. By using such a statement an average for all branches, under each account indicated, can be shown, at the cost of very little clerical labor at head office, and, by preserving the returns on file, any essential details can be found for any day of the year

Weekly Returns

[1] Specimen ruling on p. 179.

in a few minutes. In addition, an agency should forward a list of bills discounted,[1] of new loans, with their security, of overdrafts, if any, and of the new additions to the past due bill account, with such as have been taken out of the same during the week. If the purchase of Sterling Exchange be a feature of any importance in the agency, a list of such bills should also be included. Beyond these regular returns, which permit of a finger being kept on the pulse of the agency, and with special reports supplied as required, other details would scarcely be commensurate in value with the time and labor involved in their preparation.

Monthly Returns

The Monthly Return is founded upon the balance sheet, which constitutes its main feature. For every item appearing on the latter a statement should be given showing, in more or less detail, how the result is arrived at. If weekly returns of Bills Discounted, Loans, etc., have been sent as suggested, it will not be necessary to recapitulate such details, but in their place a comprehensive statement of Individual Liabilities[2] must be prepared, showing, in alphabetical order, the names of parties liable for amounts (1) as in Liabilities Ledger (Bills Discounted and Loans); (2) on Foreign Bills Purchased; (3) on Past Due Bills; (4) on Overdrafts. A synopsis of the head office account[3] should be given, the total of transactions under the various daily headings appearing, and a synopsis of each profit and loss account prepared in a similar way. A list of the balances in Current Accounts should be furnished, a list of the Deposit Receipts issued during the month, and of the Foreign Bills Purchased. Minor accounts may very well be shown in their totals, the principle underlying all being that, while the volume of business is shown in all cases, details are only given when it is necessary to form judgment upon the relations of the bank and the community, and the local administration with regard to such.

The Quarterly Returns must embrace, first, a statement of the entries which have been made through the medium of Suspense Account to determine profits, since the Directors and

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[1] Specimen ruling on p. 180; [2] p. 181; [3] p. 182.

Quarterly Returns

General Manager must be certain that due provision has been made for contingent expenses and liabilities before feeling at liberty to declare a dividend—when that time comes. The returns must, in the second place, show each piece of paper held by the agency, with the agent's report upon the parties liable upon it. The necessity for supplying such information at least once in three months is apparent when it is reflected that that period usually covers the longest dated bills, and a quarterly return would ensure a report on all. In more detail these returns are Bills Discounted, showing endorser's name, his total liability and the amounts, with acceptor's names and due dates, constituting that liability; Past Due Bills, treated similarly; Loans, showing amounts separately and borrower's total liability, with terms, due dates and security; Collateral Bills, showing on whose account held and particulars of each bill; Foreign Bills Purchased, showing drawer, drawee, place where payable, term, due date, amount and commission received. In fact, each return is supposed to be thoroughly exhaustive of its class, not, perhaps, with the intention altogether of enlightening the management of the institution as to every bill—since opportunities have been given of reporting more often—but to impose a feeling of restraint upon an agent in recognizing that his operations are subject to criticism from higher quarters. There is, unfortunately, sometimes need for a quarterly report upon some phase of business which is likely to prove more or less detrimental to the interests of the bank. Needless to say it requires every detail to be carefully transmitted to head office.

Such returns are at once independent of, and supplementary to, each other, and, with an officer "skilled in the administrative department of good government" at the head of affairs, would probably permit fairly accurate conclusions to be formed as to how the agency was meeting the business demands imposed upon it.

F. M. BLACK

BANK OF BRITISH COLUMBIA, Vancouver

SPECIMEN RULING OF TELLER'S CASH BOOK, ACCOUNTANT'S CASH BOOK AND DAY BOOK (MISCELLANEOUS). For the latter omit the headings of the columns for amounts.

	Particulars.		Miscellaneous.	Current Account.

SPECIMEN OF LEDGER RULING ON COLUMNAR OR PROGRESSIVE PRINCIPLE, PARTICULARLY AS USED FOR CURRENT ACCOUNT LEDGER.

Date.	Particulars.	Debit.	Credit.	Balance.	Interest.

SPECIMEN RULING OF CURRENT ACCOUNT DAY BOOK. (The debits are first entered, then the credits to correspond. Credits not corresponding are grouped by themselves.)

Credits.	Particulars.	Debits.

SPECIMEN RULING FOR REGISTER OF BILLS LODGED. (Bills for Collection Register is similar, showing "place of payment" and "date when paid.")

Date.	No.	Owner.		Drawee.	Term.	When Accepted.	Due.	Amount.	Remarks.
		Name.	No.						

SPECIMEN RULING FOR DISCOUNT REGISTER. (The Loan Register is similar, but more condensed and shows security held.)

Date.	No.	Endorser.	Acceptor.	Other Endorsers.	Payable.

Continued.

Amount.	Daily Total.	Date.	Term.	Due.	Rate.	Interest.	Commission.

SPECIMEN RULING OF LIABILITIES LEDGER (Loans are posted to Endorser side)

Endorser.				Other Names.	Acceptor,				
Dr.	Cr.	Balance.	No.		Due.	No.	Dr.	Cr.	Balance.

SPECIMEN RULING OF "LOCAL BILL DIARY"

	No.	Acceptor.	Amount.	How disposed of.
Bills Discounted				
Loans.				

	No.	Owner.	Owner's number.	Commission.	Proceeds.
Bills Lodged.					

DAILY ABSTRACT, FORWARDED WEEKLY

Date	Demand Deposits.	Time Deposits.	Other Immediate Liabilities.	Head Office.	Loans.
Jan. 1					
2					
3					
4					
5					
6					
Total					
" previous week					
Increase					
Decrease					

Continued.

Bills Discounted.	Past Due Bills.	Specie.	Dominion Notes.	Own Notes.	

WEEKLY RETURN. BILLS DISCOUNTED.

When Discounted.	No.	For Whom Discounted.	On Whom.	Due.

Continued.

Amount.		Term.	Rate.	Discount.	
Original.	Renewed.				

MONTHLY RETURN. LIABILITIES OF PARTIES.

Parties.	Total.	Bills Discounted and Loans.	Foreign Bills Purchased.	Past Due Bills.	Overdrafts.

MONTHLY RETURN OF STERLING EXCHANGE BOUGHT OR FOREIGN BILLS PURCHASED.

When Purchased.	No.	From Whom Purchased.	On Whom (and place.)	Amount in Sterling.	

Continued.

Amount in Dollars.	Time to Run.	Rate of Exchange.	Profit.	Loss.

SPECIMEN OF HEAD OFFICE SCHEDULE

(Memoranda.)

DEBIT X AGENCY.	CREDIT X AGENCY.
Drafts on.....Branch..... ..... do .... do .... do	
	A/c.....Branch Cheques remitted..... Bills for collection advd.....
A/c.....Branch Cheques received..... Bills for collection paid..... A/c. Branch..... For credit of .... Etc., etc., etc.	
	A/c.....Branch Drafts paid as per advice..... Etc., etc., etc.
$_____	$_____

THE REVERSAL OF FIGURES

REVERSALS of figures occasionally occur in the mechanical part of banking work, and much time, otherwise spent in calling-over, may be saved if the rules for their detection are known.

In the first place it should be remarked that the difference between a number and a reversal of it, or some portion of it, is invariably exactly divisible by 9, consequently a difference that is not divisible by 9, cannot be caused by a reversal.

When the difference is 9, it is caused by the reversal of the digits of some number, less than 100, in which one of the digits is greater than the other by 1. These numbers are

10,	Reversal of	01	Difference in each case, 9.
21,	"	12	
32,	"	23	
43,	"	34	
54,	"	45	
65,	"	56	
76,	"	67	
87,	"	78	
98,	"	89	

It should be borne in mind that a difference may have its origin in the reversal of a portion of a number only, thus, 1754 written down instead of 1745, will give a difference of 9.

The two-figure differences that are exact multiples of 9, and therefore the only ones that can be produced by reversals, are 18, 27, 36, 45, 54, 63, 72, 81, 90 and 99. One of these, 99, will be treated of separately later on, and in the case of another, 90, what is stated above about the difference 9 will apply, if the numbers be multiplied by 10. In attempting to locate a reversal giving a difference of 90, the attention should be confined to those numbers in which the hundred digit is greater by 1 than the ten digit, the unit digit, whatever it may happen to be, being disregarded.

The remaining numbers are differences produced by the reversal of the series of numbers in which one of the digits is greater than the other by the quotient of the original difference when divided by 9. Example: if the difference be 36, the series will be those numbers in which one figure is greater than the other by 4, *i.e.*, 40, 51, 62, 73, 84, 95, which are the reversals respectively of 04, 15, 26, 37, 48 and 59, the difference in each case being 36.

99 is the difference caused by the reversal of the hundred and unit digits of those numbers in which one of the named digits is greater than the other by 1, the ten digit remaining unchanged. These numbers are 100, 201, 302, 403, 504, 605, 706, 807, 908, in all of which the centre cipher may be replaced by any other digit.

The solution of three-figure differences is somewhat more complicated, but, when the principles are once understood, comparatively easy:

(i) When the difference terminates in

(*a*) a cipher—it can be solved on the lines suggested for two figure differences.

(*b*) two ciphers (the only possible case is 900)—it is solved as suggested for 9.

(ii) When the difference, in addition to being divisible by 9, is also divisible by 99 (in which case the centre figure of the difference will always be a 9, and the sum of the two other digits amount to 9), it will be found to be caused by the reversal of the hundred and unit digits of those numbers in which one of the named digits is greater than the other by the quotient of the original difference when divided by 99. Example: if the difference be 495, the series will be 500, 601, 702, 803 and 904, in all of which the centre cipher may be replaced by any other digit.

The three-figure differences that are divisible by 99 are 198, 297, 396, 495, 594, 693, 792, 891 and 990, the last one being treated in the same way as 99.

(iii) When the difference is not divisible by 99, or does not terminate in a cipher. Differences such as these are caused by a reversal in position of all three digits of the original number, and will be but rarely met in practice. If *abc* be supposed to represent the position of the digits of the original number,

the possible reversals of this kind will be *bca* and *cab*. If the difference to be solved be 342, then

(i) $abc - bca = 342$.

(ii) $abc - cab = 342$.

In each case let a cipher be substituted for *c*, then

(i) $ab0 - b0a = 342$.

(ii) $ab0 - 0ab = 342$.

In (i) it is evident that *a* must be 8, and in (ii) that *b* must be 8, then

(i) $8b0 - b08 = 342$.

(ii) $a80 - 0a8 = 342$.

In (i) *b* will be found to be 5, and in (ii) *a* to be 3, therefore

(i) $850 - 508 = 342$.

(ii) $380 - 038 = 342$.

Each of these numbers, thus obtained, is the lowest of a series formed by adding 1 to each digit until one or other of them becomes 9, when the series terminate. Thus

(i)	850,	Reversal	508	Difference in each case, 342.
	961,	"	619	
(ii)	380,	"	038	
	491,	"	149	

Again, by substituting the cipher for *b* instead of *c*, the equations become

(i) $a0c - 0ca = 342$.

(ii) $a0c - ca0 = 342$.

In (i) *c* is 6, and in (ii) *c* is 2, then

(i) $a06 - 06a = 342$.

(ii) $a02 - 2a0 = 342$.

In (i) *a* is now found to be 4, and in (ii) to be 6, therefore

(i) $406 - 064 = 342$.

(ii) $602 - 260 = 342$.

The series can now be completed as before.

(i)	406,	Reversal	064	Difference in each case, 342.
	517,	"	175	
	628,	"	286	
	739,	"	397	
(ii)	602,	"	260	
	713,	"	371	
	824,	"	482	
	935,	"	593	

The substitution of the cipher for *a* will give two of the above results, when *abc* is subtracted from *bca* and *cab*.

There remains one three-figure difference, 999, of which to treat. It is produced by the reversal of the first and last digits of those four-figure numbers in which one of the named digits is greater than the other by 1. Of four-figure differences nothing need be said, as their occurrence is extremely rare.

Thus far, it will be noticed, the differences mentioned have been spoken of as *numbers*, but the application of the methods suggested to the solution of reversals of *amounts*, in a decimal currency, is obvious.

A short explanation of the methods by which sterling differences can be solved, may not be out of place. If the reversal is confined to the figures representing the pounds, the methods explained above will enable the difference to be solved. There remain

(i) Reversals of shillings and pence.

(ii) Reversals of pounds and shillings.

(iii) Reversals of pounds and pence.

(i) *Reversals of shillings and pence.* In this case the difference will be 11d. or a multiple of 11d. The quotient, when the difference is divided by 11, gives the number of pence which is less than the same number of shillings by the amount of the original difference. These having been found, the remainder of the series can be constructed by adding 1 to the shillings and to the pence, until one or other of them becomes 11, when the series terminates. Example: if the difference be 3s. 8d., then 44d. ÷11 = 4. The series is, therefore,

4s. 0d.,	Reversal	0s. 4d.	Difference in each case, 3s. 8d.
5s. 1d.,	"	1s. 5d.	
6s. 2d.,	"	2s. 6d.	
7s. 3d.,	"	3s. 7d.	
8s. 4d.,	"	4s. 8d.	
9s. 5d.,	"	5s. 9d.	
10s. 6d.,	"	6s. 10d.	
11s. 7d.,	"	7s. 11d.	

(ii) *Reversals of pounds and shillings.* The difference will always be 19s., or a multiple of 19s. (easily recognizable from the fact that the numbers representing the pounds and the shillings, when added together, will give a total of 19). The quotient,

when the difference in shillings is divided by 19, is the number of shillings that, subtracted from the same number of pounds, gives the original difference in question. The series is completed as before described. Example: if the difference be £5 14s. 0d.; then 114s.÷19=6s. The series is

£	s.	d.		£	s.	d.	
6	0	0	Reversal	0	6	0	Difference in each case, £5 14s. 0d.
7	1	0	"	1	7	0	
8	2	0	"	2	8	0	
9	3	0	"	3	9	0	
10	4	0	"	4	10	0	
11	5	0	"	5	11	0	
12	6	0	"	6	12	0	
13	7	0	"	7	13	0	
14	8	0	"	8	14	0	
15	9	0	"	9	15	0	
16	10	0	"	10	16	0	
17	11	0	"	11	17	0	
18	12	0	"	12	18	0	
19	13	0	"	13	19	0	

This series comes to an end when one of the numbers becomes 19.

(iii) *Reversals of pounds and pence.* The difference in this case will be 19s. 11d., or a multiple of this amount. The quotient, when the difference is divided by 19s. 11d., gives the number of pence that subtracted from the same number of pounds gives the original difference in question. The series is then completed in the usual way. Example: if the difference be £7 19s. 4d., this amount divided by 19s. 11d., gives 8 as the quotient; the series is then found to be

£	s.	d.		£	s.	d.	
8	0	0	Reversal	0	0	8	Difference in each case, £7 19s. 4d.
9	0	1	"	1	0	9	
10	0	2	"	2	0	10	
11	0	3	"	3	0	11	

This series comes to an end when one or other of the numbers becomes 11.

F. D. HENDERSON

BANK OF BRITISH NORTH AMERICA, Montreal

PRIZE ESSAY COMPETITION, 1897

THE following subjects have been selected by the Committee for the next Prize Essay Competition:

SENIOR COMPETITION

Point out what constitutes unwise competition between banks; and describe the effect of outside competition, on the part of Government, Loan Companies, Express Companies, and financial corporations generally: and suggest remedies.

A first prize of - - - - -	$100
A second prize of - - - -	60

JUNIOR COMPETITION

State comprehensively the duties and responsibilities connected with the Bill Department of a bank, including those relating to

1 *Discount Department*
2 *Collection Department*
3 *Foreign Exchange Department*

A first prize of - - - - -	$60
A second prize of - - - -	40

Competitors eligible for the senior competition will comprise managers and senior officers who have had a banking experience of not less than 10 years.

Competitors eligible for the junior competition will comprise all under 28 years of age, whose banking experience does not reach 10 years.

The essays in either subject are not to exceed 7,500 words. *All essays must be typewritten*, having the writer's nom-de-plume or motto, also typewritten, subscribed thereto, and be lodged with the Secretary-Treasurer not later than the 30th day of April.

The address on the envelope containing the essay must be typewritten and to insure identification of the essayist, a

separate sealed envelope, containing the name, rank, and place of employment of the competitor, and with his nom-de-plume or motto on the outside, must accompany the essay.

A special Committee will examine the essays and decide the prize-winners.

The prize essays will remain the property of the Association.

The envelopes of successful competitors only will be opened, except on request.

F. WOLFERSTAN THOMAS,
President

Montreal, 19th Dec., 1896

THE DEPOSIT OF VALUABLES WITH BANKERS FOR SAFE CUSTODY

AS a result of the decision in the case of *Langtry v. Union Bank*,* the Central Association of Bankers in London appointed a sub-committee to consider the question of the precautions which should be taken by bankers in accepting valuables for safe keeping. The report of this committee, which has been adopted by the Association, will be read with interest. It is as follows:

The settlement of the action brought by Mrs. Langtry against the Union Bank of London for the box of jewels deposited by her with them for safe custody, has again brought to the front the question of the extent of a banker's liability in these cases.

It is necessary to distinguish between cases in which valuables are by mistake delivered to the wrong person (as in Mrs.

*See JOURNAL, vol. III, p 196.

Langtry's case), and cases in which they are destroyed, lost, stolen or fraudulently abstracted, whether by an officer of the bank or by some other person.

The best legal opinion appears to be that, in the former case, the question of the negligence of a bailee does not arise, that the case is one of wrongful conversion of the goods, and that the bank is liable for this wrongful conversion apart from any question of negligence.

The liability of the banker when the valuables are destroyed by fire, or lost, or stolen, whether by an officer of the bank or by a stranger, depends upon the question of the negligence of a bailee. The better opinion seems to be that when a banker takes charge of a locked box supposed to contain valuables (the contents of which, however, are not known to the banker and to which he has no access), he would be held to be a gratuitous bailee and would not be liable in any of these cases, if he has used the care which an ordinarily prudent man would take of his own valuables. The question whether this amount of care has been used would necessarily be a question for the jury in each case.

While in the opinion of Council it is possible for a banker, by special contract made with his customer at the time of the deposit, to contract himself out of his liability, the opinion of your Committee is that this would be generally impossible in practice, and, where not impossible, inadvisable; and that the liability can only be guarded against by precautions taken by the banker. Obviously if the box is re-delivered to an agent the banker must be satisfied that the agent has the necessary authority, and he should be identified if he is not known.

The practice of bankers as to giving a receipt for these boxes and requiring the receipt to be returned on re-delivery, varies, and even where this is done it may be open to question whether it is desirable to state on the face of the receipt the formalities to be complied with when application is made for re-delivery.

On the whole your Committee consider that the use of a receipt is desirable, and they suggest the form annexed hereto. If it is thought desirable to attempt by the conditions of the receipt to relieve the banker from legal liability, the terms of the document would have to be very definite, and it would be desirable that the customer should sign it on making his deposit.

FORM OF RECEIPT

The.....Bank, Limited

Received *this*.....*day of*.....*189*.....

from [*name of depositor*].....

of [*address of depositor*].....

.....

Here insert description of articles deposited. .....

.....

.....

to be placed in the Bank's strong room.

NOTE.—Please produce this acknowledgment when you call for the articles above specified, and if you do not attend personally, be good enough to fill up the form on the other side.

(TO BE ENDORSED ON THE RECEIPT)

Sir,—

Please deliver to bearer, Mr.....

the articles mentioned on the other side.

Signature.....

Residence.....

Date.....

In connection with the above report the following letter which appeared in a recent number of *The Economist* will be read with interest:

"As an old reader of your valuable journal, I noticed in your issue of 7th inst. that the Central Association of Bankers had decided that, in the case of *Langtry v. Union Bank of London*, the latter were well advised to settle. This, I believe, was your view all along, and it seems to me to be in accord with common sense. After an experience of forty years in the craft, I consider that a banker can no more ask for relief from the result of parting with a customer's securities on a forged order than he can for paying away a customer's balance on a similar document. A jury would condemn him, and the public would avoid his bank.

"I much regret to notice that the Association suggests the

issuing of receipts. The idea that they afford any security to the banker has been proved by experience in the past to be an exploded notion. They complicate matters; and, in my opinion, would assist designing persons. They were frequently lost or mislaid, to say nothing of the ability to forge them entirely. You could not refuse to surrender a security without their production, and their being lost or mislaid was of very frequent occurrence; so much so that the practice of issuing them at all in London fell into desuetude, and I trust, for the sake of the banks, that it will so remain. I remember that one of the large banks had a customer who died, and whose executors found among his papers no fewer than eight receipts for one box each. Numerous officials of the bank and the executors' accountants were engaged for weeks in making it clear that they all related to the same box. Lately the manager of one of the largest Scotch banks informed me that they have a book of receipts, and should some peculiar customer press for one they give it. They have issued three receipts in five years. A receipt would not have saved the Langtry box, as the forger would no doubt have been aware of it, and have had it ready. Experience shows such an incident as this loss may arise perhaps in a century. The plan in vogue now has therefore been proved to be as good as can be arranged. From interviews I have had, I believe that practical London managers deprecate such receipts. Let us, therefore, let well alone, or we may fly to ills we know not of."

NOTES AND COMMENT

To WHAT extent the recent election in the United States was a triumph for the cause of sound money is a question which has been much debated for some time past both in Europe and America.

The acclaims of the victors moderated as the final returns indicated a less sweeping victory than had seemed assured in the first few hours after the contest, until many of them came at length to doubt whether after all the result was a sufficiently decisive one to warrant complete confidence in the future stability of the currency. It was found on summing up that 6,350,000 votes had been polled for Bryan as against but 7,100,000 for the nominee of the sound money party, and much stress has been laid upon the fact—somewhat startling at first sight—that it only required the reversal of 375,000 votes out of a total of 13,450,000, to have carried the country for silver. That the issue does not hang by any such slender thread, however, can be seen by an analysis of the election results as we here record them[1]:

RESULTS IN STATES CARRIED BY THE REPUBLICANS

	Majority in 1892	Majority in 1896	Perc. of total vote polled by successful party in 1896	Number of votes for Pres't accord'd to the respective States
California	*150*	2,000	50.04	9
Connecticut	*5,000*	63,000	*67.	6
Delaware	*500*	4,000	56.	3
Illinois	*27,000*	144,000	*57.	24
Indiana	*7,000*	18,000	52.	15
Iowa	23,000	70,000	*57.	13
Kentucky	*40,000*	300	50.01	13
Massachusetts ...	26,000	190,000	*76.	15
Maryland	*21,000*	32,000	*57.	8
Maine	15,000	48,000	*71.	6
Michigan	20,000	56,000	*56.	14

[1] Italics throughout represent Democratic majorities.

	Majority in 1892	Majority in 1896	Perc. of total vote polled by successful party in 1896	Number of votes for Pres't accord'd to the respective States
Minnesota.....	22,000	54,000	*58.	9
New Hampshire.	4,000	36 000	*75.	4
New Jersey	15,000	88,000	*64.	10
New York.....	45,000	280,000	*60.	36
North Dakota ...	200	5,000	56.	3
Ohio	1,000	52,000	*53.	23
Oregon	8,000	2,000	51.	4
Pennsylvania ...	64,000	306,000	*63.	32
Rhode Island ...	2,000	24,000	*73.	4
Vermont	21,000	41,000	*84.	4
West Virginia ...	4,000	12,000	53.	6
Wisconsin.....	6,000	103,000	*62.	12
Electoral votes				273
RESULTS IN STATES CARRIED BY THE DEMOCRATS				
Alabama	53,000	52,000	70.	11
Arkansas	41,000	72,000	74.	8
Colorado	15,000	132,000	86.	4
Florida	25,000	19,000	71.	4
Georgia.....	81,000	34,000	61.	13
Idaho.....	2,000	17,000	79.	3
Kansas	6,000	13,000	52.	10
Louisiana..... ..	61,000	59,000	81.	8
Missouri	41,000	59,000	54.	17
Mississippi	30,000	53,000	94.	9
Montana	1,000	33,000	81.	3
Nebraska	4,000	13,000	52.	8
Nevada.....	4,000	6,000	80.	3
North Carolina..	32,000	19,000	53.	11
South Carolina...	41,000	53,000	92.	9
South Dakota...	8,000	200	50.1	4
Tennessee	38,000	15,000	52.	12
Texas.....	140,000	202,000	70.	15
Utah...		54,000	84.	3
Virginia.....	50,000	20,000	53.	12
Washington	7,000	13,000	57.	4
Wyoming	1,000	500	51.	3
Electoral votes				174

The Southern States have never since the war failed to give a united support to the Democratic party, the application of the term "the solid south" having been always literally correct. The strength mustered in some of these states by the Republicans has been ridiculously small, and the circumstances out of which this allegiance to the one party grew were such as

to render it a foregone conclusion that the mass of the Southern States would support the Democrats, whatever policy the party managers might succeed in foisting upon them. And many of the Western States being deeply interested in the silver mining industry, it was therefore upon the condition of public opinion in the Eastern and middle Western States that the issue between free silver and sound currency almost entirely depended, and it is to the outcome here that it is necessary to look in order to determine the character of the Republican victory and the present strength of the cause of sound currency.

Of 18 states bounded by lines drawn south-east and north-west from a point on the Mississippi, and answering to the description of the east and middle-west, 8 were carried by the Democrats in 1892, while the remaining 10 went Republican by majorities in most cases but moderate—in 2 insignificant. In the election of November last, of these 18 states the Democrats were able to hold not a single one, while for the first time in 30 years the line of the solid south was broken—at Kentucky and West Virginia.

In all, 23 states were carried by the Republicans. 16 of these (those marked * in the foregoing table), being comprised in the 18 referred to in the preceding paragraph, would have sufficed to elect the President. It will be seen that in only 1 of these 16 states was the vote polled by the Republicans less than 56%, the range being from 56 to 84%. It is, perhaps, necessary to consider with these figures the actual majorities in the states to which they respectively pertain in order to see how substantial they are.

In the 23 states carried by the Republicans the total vote was: for McKinley, 5,550,000; for Bryan, 3,850,000; while in the 16 of these states possessing a majority vote for the Presidency, the totals were: McKinley, 4,900,000; Bryan, 3,250,000. These figures afford the best index of the present strength of the cause of sound currency, and bearing in mind that in the states to which they refer the total vote was in 1892 almost evenly divided, and that, as is always the case, the great mass of the electorate vote for a party and not for a policy, surely a greater triumph could not have been hoped for than is reflected in the vote of that portion of the country which now comprises

a "solid east and middle-west." The Bryan party must be keenly conscious of the fact that with one exception no Presidential candidate since the war has received such a crushing defeat. Why then should not the victors be content?

—

Whether the agitation for free silver can retain sufficient vitality to make it again an issue at the next election, is a question upon which it would be useless for anyone to venture a prediction at the present time. A good deal will probably turn upon whether and in what manner the currency problem is dealt with by the new administration, but with the advent of another period of prosperity it would no doubt be quite impossible for the advocates of silver to force another serious contest in the near future.

In the opinion of many thoughtful men, however, the free silver agitation is but one form in which expression is being given to the discontent prevailing among the poorly endowed elements of the community. It is urged that while discontent is invariably rife among this class in every country during bad times, under the conditions existing in the United States the distress among the masses is aggravated and the consequent disaffection rendered more pronounced, while under the American institutions a power is placed in the hands of the uneducated which they are beginning to utilize to the danger of the State, in a struggle to remedy the inequalities of things. The recent election was the first marked illustration of this. The issue turned entirely upon the financial question, and in deciding it the vote of the illiterate had the same weight as that of the educated. It is a notable fact, too, that in the States carried by Bryan the percentage of the illiterate was about 20 as against 7 in those carried by McKinley.

In this connection we subjoin the text of some recently disclosed* letters written in 1857 by Lord Macaulay to Hon. H. S. Randall, author of the *Life of Jefferson*, which contain some prophecies concerning the outcome of the American form of

Gunton's Magazine, Sept., 1896.

government and American institutions which, read in the light of recent events, are altogether remarkable:

HOLLEY LODGE, KENSINGTON,
LONDON, May 23rd, 1857

DEAR SIR,—The four volumes of the "Colonial History of New York" reached me safely. I assure you that I shall value them highly. They contain much to interest an English as well as an American reader. Pray, accept my thanks, and convey them to the Regents of the University.

You are surprised to learn that I have not a high opinion of Mr. Jefferson, and I am surprised at your surprise. I am certain that I never wrote a line, and that I never in Parliament, in conversation or even on the hustings —a place where it is the fashion to court the populace—uttered a word indicating an opinion that the supreme authority in a state ought to be entrusted to the majority of citizens told by the head; in other words, to the poorest and most ignorant part of society. I have long been convinced that institutions purely democratic must, sooner or later, destroy liberty or civilization, or both.

In Europe, where the population is dense, the effect of such institutions would be almost instantaneous. What happened lately in France is an example. In 1848 a pure democracy was established there. During a short time there was reason to expect a general spoliation, a national bankruptcy, a new partition of the soil, a maximum of prices, a ruinous load of taxation laid on the rich for the purpose of supporting the poor in idleness. Such a system would, in twenty years, have made France as poor and barbarous as the France of the Carlovingians. Happily, the danger was averted; and now there is a despotism, a silent tribune, an enslaved press. Liberty is gone, but civilization has been saved. I have not the smallest doubt that, if we had a purely democratic government here, the effect would be the same. Either the poor would plunder the rich and civilization would perish, or order and prosperity would be saved by a strong military government, and liberty would perish. You may think that your country enjoys an exemption from these evils. I will frankly own to you that I am of a very different opinion. Your fate I believe to be settled, though it is deferred by a physical cause. As long as you have a boundless extent of fertile and unoccupied land, your laboring population will be far more at ease than the laboring population of the old world, and, while that is the case, the Jefferson politics may continue to exist without causing any fatal calamity. But the time will come when New England will be as thickly populated as old England. Wages will be as low, and will fluctuate as much with you as with us. You will have your Manchesters and Birminghams, and in those Manchesters and Birminghams hundreds of thousands of artizans will assuredly be sometimes out of work. Then, your institutions will be fairly brought to the test. Distress everywhere makes the laborer mutinous and discontented, and inclines him to listen with eagerness to agitators who tell him that it is a monstrous iniquity that one man should have a million while another cannot get a full meal. In bad years there is plenty of grumbling here, and sometimes a little rioting. But it matters little. For here the sufferers are not the rulers. The supreme power is in the hands of a class, numerous indeed, but select; of an educated class; of a class which is, and knows itself to be, deeply interested in the security of property and maintenance of order. Accordingly, the malcontents are firmly yet gently restrained. The bad time is got over without robbing the wealthy to feed the indigent. The springs of national prosperity soon begin to flow again: work is plentiful, wages rise, and all is tranquillity and cheerfulness. I have seen England pass three or four times through such critical seasons as I have described. Through such seasons the United States will have to pass in the course of the next century,

if not of this. How will you pass through them? I heartily wish you a good deliverance. But my reason and my wishes are at war, and I cannot help foreboding the worst. It is quite plain that your government will never be able to restrain a distressed and discontented majority. For with you the majority is the government, and has the rich, who are always a minority, absolutely at its mercy. The day will come when, in the State of New York, a multitude of people, none of whom has had more than half a breakfast, or expects to have more than half a dinner, will choose a legislature. Is it possible to doubt what sort of a legislature will be chosen? On one side is a statesman teaching patience, respect for vested rights, strict observance of public faith. On the other is a demagogue ranting about the tyranny of capitalists and usurists, and asking why anybody should be permitted to drink champagne and to ride in a carriage, while thousands of honest folks are in want of necessaries. Which of the two candidates is likely to be preferred by a workingman who hears his children cry for more bread? I seriously apprehend that you will in some such season of adversity as I have described, do things which will prevent prosperity from returning; that you will act like people who should in a year of scarcity devour all the seed corn, and thus make the next a year, not of scarcity, but of absolute famine. There will be, I fear, spoliation. The spoliation will increase the distress. The distress will produce fresh spoliation. There is nothing to stop you. Your Constitution is all sail and no anchor. As I said before, when a society has entered on this downward progress, either civilization or liberty must perish. Either some Cæsar or Napoleon will seize the reins of government with a strong hand, or your government will be as fearfully plundered and laid waste by barbarians in the 20th century as the Roman was in the fifth, with this difference, that the Huns and Vandals who ravaged the Roman Empire came from without, and that your Huns and Vandals will have been engendered within your own country by your own institutions.

Thinking thus, of course I cannot reckon Jefferson among the benefactors of mankind. I readily admit that his intentions were good and his abilities considerable. Odious stories have been circulated about his private life; but I do not know on what evidence those stories rest, and I think it probable that they are false and monstrously exaggerated. I have no doubt that I shall derive both pleasure and information from your account of him.

I have the honor to be, dear sir, your faithful servant,

T. B. MACAULAY

H. S. RANDALL, ESQ., etc., etc., etc.

HOLLEY LODGE, KENSINGTON,

October 9, 1858

SIR:—I beg you to accept my thanks for your volumes, which have just reached me, and which, as far as I can judge from the first hasty inspection, will prove both interesting and instructive.

Your book was preceded by a letter, for which I have also to thank you. In that letter you expressed, without the smallest discourtesy, a very decided dissent from some opinions which I have long held firmly but which I should never have intruded on you except at your own earnest request, and which I have no wish to defend against your objections.

If you can derive any comfort as to the future destinies of your country from your conviction that a benevolent Creator will never suffer more human beings to be born than can live in plenty, it is a comfort of which I shall be sorry to deprive you. By the same process of reasoning one may arrive at many very agreeable conclusions, such as that there is no cholera, no malaria, no yellow fever, no negro slavery, in the world. Unfortunately for me, perhaps, I learned from Lord Bacon a method of investigating truth diametrically opposite to that which you appear to follow. I am perfectly aware of

the immense progress which your country has made and is making in population and wealth. I know that with you the laborer has large wages, abundant food, and the means of giving some education to his children. But I see no reason for attributing these things to the policy of Jefferson. I see no reason to believe that your progress would have been less rapid, that your laboring people would have been worse fed, or clothed, or taught, if your government had been conducted on the principles of Washington and Hamilton. Nay, you will, I am sure, acknowledge that the progress which you are now making is only a continuation of the progress which you have been making ever since the middle of the seventeenth century, and that the blessings which you now enjoy were enjoyed by your forefathers who were loyal subjects of the kings of England. The contrast between the laborer of New York and the laborer of Europe is not stronger now than it was when New York was governed by noblemen and gentlemen commissioned under the English great seal. And there are at this moment dependencies of the English crown in which all the phenomena which you attribute to purely democratic institutions may be seen in the highest perfection. The colony of Victoria, in Australia, was planted only twenty years ago. The population is now, I suppose, near a million, the revenue is enormous, near five million sterling, and raised without any murmuring. The wages of labor are higher than they are even with you. Immense sums are expended on education. And this is a province governed by the delegate of a hereditary sovereign. It, therefore, seems to me quite clear that the facts which you cite to prove the excellence of purely democratic institutions, ought to be ascribed, not to those institutions, but to causes which operated in America long before your Declaration of Independence, and which are still operating in many parts of the British Empire. You will perceive, therefore, that I do not propose, as you thought, to sacrifice the interests of the present generation to those of remote generations. It would, indeed, be absurd in a nation to part with institutions to which it is indebted for immense present prosperity from an apprehension that, after the lapse of a century, those institutions may be found to produce mischief. But I do not admit that the prosperity which your country enjoys arises from those parts of your policy which may be called, in an especial manner, Jeffersonian.

Those parts of your policy already produce bad effects, and will, unless I am greatly mistaken, produce fatal effects if they shall last till North America has 200 inhabitants to the square mile.

With repeated thanks for your present, I have the honor to be, sir, your faithful servant,

MACAULAY

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The July number of the monthly statistical journal of Austria (*Statistische Monatschrift*), contains a review of a paper on the Canadian Banking System, read by Mr. S. M. Wickett, a graduate of Toronto University, before Professor Dr. Inama Sternegg, the President of the Central Commission in Vienna. Mr. Wickett briefly reviews the stringent financial conditions of three years ago, and after giving a concise account of the financial organization here obtaining, comparing the same with that in the American Union, emphasizes the importance of

a system of branch banks, or as he terms it, of a federalized bank organization for elasticity and for security in bank issues. Though not believing that the Americans will see fit to adopt our system, Mr. Wickett expresses the opinion that prospective reforms in the American banking laws will be on the lines of those in force in Canada.

A HISTORY OF BANKING IN ALL NATIONS

The publication of the work bearing the above title was a formidable task to undertake, and upon its most successful completion Mr. William Dodsworth, the able editor of the New York *Journal of Commerce and Commercial Bulletin*, deserves much praise and congratulation.

It is, as implied by the title, purely a *history* of banking. Of the general scheme of the work the editor remarks in a prefatory note that "the method of treatment adopted has been to pursue an impartial narrative of events, exhibiting the various banking and currency systems in their actions and results rather than to discuss them critically." That the object aimed at has been achieved in a manner which leaves nothing to be desired, appears to be the unanimous opinion of the reviewers.

The publication comprises four volumes, and in its thirteen divisions the following countries are dealt with, viz: United States, Great Britain, Russia, France, Italy, Spain, Belgium, Switzerland, Portugal, Roumania, Alsace-Lorraine, Canada, Germany, Austria-Hungary, Netherlands, Denmark, Norway, Swedan, Japan and China. Among the contributors are Prof. Sumner, of Yale University, who prepared the chapters on the United States; Henry Dunning Macleod, on Great Britain; Max Wirth, on Germany and Austria-Hungary; Prof. Dr. Richard Van Der Borght, on the Netherlands; B. E. Walker, on Canada.

QUESTIONS ON POINTS OF PRACTICAL INTEREST

THE Editing Committee are prepared to reply through this column to enquiries of Associates or subscribers from time to time on matters of law or banking practice, under the advice of Counsel where the law is not clearly established.

In order to make this service of additional value, the Committee will reply direct by letter where an opinion is desired promptly, in which case stamp should be enclosed.

The questions received since the last issue of the JOURNAL are appended, together with the answers of the Committee:

Deposit in Name of Deceased Minor

QUESTION 46.—A minor (resident in Ontario) dies leaving a balance in savings bank. Can the father of such minor draw the money? What is the legal course to pursue?

ANSWER.—Money at credit of a deceased depositor who was a minor at the time of his death, can only be legally drawn by his administrators duly appointed. There may be cases where it would be reasonable to pay the amount to the parents, but such payments could only be made at the bank's risk. Under the present procedure in the Surrogate Court letters of administration for an estate of trifling amount can be obtained at a nominal charge, we believe $2.

Liability of Collecting Agent—Express Company

QUESTION 47.—A bank at Creditburg sent a promissory note for collection, addressed to "The Express Company, Duntown." The agent of the Express Company collected the note and remitted proceeds in error to an endorser on the note, instead of to the bank, which endorser made an assignment a few days afterwards.

Are the Express Company liable? Can they escape liability under the plea that the bank sent the note direct to the Express Company at Duntown instead of through the local agent at Creditburg?

Or is the agent only personally liable?

ANSWER.—Assuming that there were no instructions in the communication sent with the note which would justify the

remittance of the proceeds to the endorser, the Express Company or the agent would be liable to the owner of the note. As to which is liable would depend on the extent to which the Express Agent is the agent of the Company. It would seem to us that as the Express Company hold him out as their agent for their ordinary business, which includes the collection of money, they would be liable. They might say that a collection sent to him by mail from another point and not through the local agent, is not within the usual scope of their regular business, but we doubt very much if that affects the question of agency. He collected the money on their behalf, and the charge for the service was no doubt credited to them.

Identification of the Payee of a Cheque

QUESTION 48.—With reference to Question 43, appearing on page 95, vol. 4, of the JOURNAL, is the inference to be drawn from the answer thereto that it becomes a duty devolving upon the ledger-keeper before accepting a cheque payable to any specified person, to satisfy himself as to the identity of the said person, in order to insure the bank against the possibility of action being taken by him (the payee) on the ground of delayed payment.

ANSWER.—The question asked arises very naturally from the reply to Question 43, but we do not think that the change effected by accepting a cheque in the position of the bank towards the holder of it, involves consequences sufficiently serious to call for any change in the customary practice. The concluding part of the reply to Question 43 indicates that the bank would not suffer in costs or damages if it acts reasonably in the matter of requiring or procuring identification of the payee of a marked cheque.

Account in Name of Two Executors

QUESTION 49.—An account stands in the name of two executors. Is it not legal, according to the Bank Act, for either alone to draw?

ANSWER.—If the circumstances connected with the deposit show that it consists of moneys held by two executors as such, probably either may draw, though it is customary and safer to require both signatures. But if there is an express understanding that both are to sign, or if such an understanding might be implied from the circumstances connected with the deposit, this would, of course, alter the case, as the provisions of any contract must be complied with by the bank.

The law in Ontario empowers any one executor to withdraw money standing at credit of a deceased depositor, but if money were deposited to the credit of the executors, it would

be safer to require the signatures of all. It is difficult to say what effect sec. 84 would have in such a case, but as in cashing a cheque drawn (*e.g.*) by one of two trustees the bank would take on itself the burden of disproving any claim set up by the other that there was an understanding that both should sign, it is clear that it would be taking a serious risk quite unnecessarily. Sub-sec. 2 of sec. 84 may be held to be confined to cases where, but for that section, the bank could not take the deposit at all.

Forged Cheque Cashed by the Drawee Bank

QUESTION 50.—A cheque endorsed by the payee to a third party is presented by the latter to the bank on which it was drawn and duly honored. It subsequently transpires that the drawer's name had been forged by the payee.

Would the bank have any recourse against the endorsee who was ignorant of the forgery when he obtained payment from the bank?

ANSWER.—The law is quite clear that a bank is bound to know the signature of its own customer, and that it pays a forged cheque at its own peril. In the case stated, the bank would have no recourse whatever against the innocent party to whom it paid the money. The position of the bank is analogous to that of the acceptor of a bill, who by Section 54 of the Bills of Exchange Act, is precluded from denying the genuineness of the drawer's signature.

Warehouse Receipts

QUESTION 51.—A, a resident of Ontario, sells to B a quantity of goods which B duly pays for, but asks A to keep for him until they are required. B subsequently wishes to borrow on the security of the goods, and A gives him a warehouse receipt for them. Can a bank, by lending money on the security of this warehouse receipt, acquire a good title to the property, or would there be a flaw in it owing to the fact that the sale had not been accompanied by a change of possession? No Bill of Sale was given.

ANSWER.—Under the Ontario Statutes respecting Bills of Sale and Chattel Mortgages, a sale of goods unaccompanied by delivery or change of possession would not be good as against creditors of the vendor, unless there were a registered Bill of Sale. The bank in the case stated would acquire the purchaser's title, that is a title subject to the above defect; good against the vendor, but not against the vendor's creditors. Of course, as a basis for an advance, this might be all that the bank requires.

LEGAL DECISIONS AFFECTING BANKERS

NOTES

THE legal cases reported in this issue will, we think, be found of special interest to bankers. In one or two of them principles which seem to us to be of very great importance are dealt with in a way which to the ordinary lay mind is somewhat unexpected.

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Principal and Surety.—The rights of sureties against creditors have been more and more stringently sustained by the Courts, but in *Trusts Corporation v. Hood* the right of the creditor to reserve his claims against sureties is affirmed on a very interesting point.

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Assignments of Book Accounts.—In *Trusts Corporation v. Rider* and *Seyfang v. Mann*, we have two judgments bearing on the important question of the rights of an assignee of book accounts.

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What Constitutes a Promissory Note.—The judgment of the English Queen's Bench Division in *Kirkwood v. Smith et al*, although it turns on a small point, is one of the most important reported in this number, and if the reasoning of the learned Chief Justice of England is followed in other cases, we may find the definition of a promissory note narrowed very materially. The judgment in effect holds that by permitting, under sub-sec. 3 of sec. 83 of the Bills of Exchange Act (sec. 82 of our Act), the inclusion in a promissory note of a pledge of collateral security with authority to dispose of the security, the legislature have declared that the inclusion of any other condition whatever renders the document invalid as a promissory note. This is a principle which might have very far-reaching consequences.

The "One Man Company" Case.—Some of our readers will no doubt regret that the appeal of Salomon to the House of Lords in the "One Man Company" case (see p. 116, vol. III JOURNAL) has resulted in the reversal of the judgment of Mr. Justice Vaughan Williams, which was warmly approved in many quarters because in it the court seemed to have given more weight to the principles of equity than to technical points of law, to the furtherance of the ends of justice. The judgment of the Lord Chancellor cannot, however, but be regarded with the greatest respect, as that of a calm and passionless tribunal, concerned only to apply rigidly the principles of law, and to interpret strictly the meaning of statutes. While there are no doubt cases where equity and justice would be served by a less technical application of the law, any leaning in that direction could not fail to produce evils, perhaps more serious than those it was desired to counteract.

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Rights of a Bank Paying a Cheque on a Forged Endorsement.—In view of the great importance to bankers of the principles involved in the judgment given by the Queen's Bench Division, England, in *London and River Plate Bank v. Bank of Liverpool*, which was published in full in the JOURNAL (vol. III p. 309), it was thought desirable to ascertain from the plaintiffs what they proposed to do in the way of appealing. On learning from them that they did not propose to carry the case farther, a communication was addressed to Mr. J. R. Paget, standing counsel of the English Institute of Bankers, which resulted in the correspondence published below.

It might be deemed strange that a point so vital as this should not have been settled long ago, but apparently this is the first case in which a direct dispute of the kind has been adjudicated. No doubt this is due in a great measure to the fact that under English law since 1853, such a question could never arise with respect to cheques, but only in the case of acceptances of customers paid by their bankers, and drafts drawn on banks payable at a term, which form relatively a

very small proportion of the documents paid by banks, and are, from their nature, less liable to have flaws in their title. The banks in Canada are very vitally interested, since they are not protected in the case of cheques payable to order, and if this law is sound they are daily taking risks of very serious magnitude.

The principle laid down in the case, broadly stated, is this, that if a bill drawn to order (which would include, as far as we are concerned, a cheque as well) is paid by a bank to a party holding the same in good faith, and this party is found to have a defective title for want of authority, or because of a forgery, the bank cannot recover the money back if such a time has elapsed that his position *may* have been altered.

The banks of Canada have it in their power to protect themselves in one way only—that is, by refusing to permit cheques drawn on them to be made payable to order, unless they are crossed. Banks paying crossed cheques, and banks collecting crossed cheques for their customers, are both protected under ss. 79 and 81 of the Bills of Exchange Act, so that if all "order" cheques were crossed, the responsibility for a forged endorsement, would be put where it properly belongs—that is, upon the owner of the cheque, who by his negligence or misfortune puts it in the power of a third party to commit a fraud, and not upon the bank, which in no way could have contributed to the fraud.

The case has, of course, a very direct bearing on the practice of Canadian banks with respect to stamped endorsements. The banks have hitherto regarded this practice as quite unobjectionable, when the items came through other banks in good standing, but if the principles laid down in this judgment prevail, that theory will no longer be tenable. As has been aptly suggested by a member of the Council of the Association, "we are inclined more or less to adopt American practices, but their effect has to be decided by English law." The law laid down in this case differs materially from that in the United States.

We hope in a later number to have a full discussion of the case as affecting Canadian banks; in the meantime we think it

well that our readers should have the correspondence before them without delay :

TORONTO, 24th April, 1896

DEAR SIR,—The recent decision of the Queen's Bench Division in the case of *London & River Plate Bank v. Bank of Liverpool* has caused a good deal of concern among bankers here. It is completely at variance with what we have always understood to be the law, and is seemingly opposed to the equities of the matter. We supposed that there was no doubt that the judgment would be appealed, as you will gather from the comment in the last issue of the JOURNAL of this Association (a copy of which we send you), but we regret to learn from the London & River Plate Bank that they have decided not to carry the case farther.

If the ruling of the court in the case in question is good law, it is a matter for serious consideration on the part of banks as to what steps they should take to protect themselves from the risks involved in paying cheques bearing more than one endorsement. We should be much interested to see a discussion of the case in one of the Gilbart Lectures if you should consider that its importance warrants it. We presume that it would not be in the way of the Institute of Bankers to take any action in the matter, say in the direction of promoting an appeal ? Yours truly,

(Sgd.) J. H. PLUMMER,
Chairman, Editing Committee

J. R. PAGET, ESQ., B.A., LL.B.

4 PAPER BUILDINGS, TEMPLE,
LONDON, May 23rd, 1896

DEAR SIR,—I beg to acknowledge your letter of the 24th ultimo. I should have answered it before now, but was waiting to see the number of your journal, which somehow has never reached me. I do not like to let your courtesy in writing to me go longer unrecognized, and must therefore assume the grounds of your Association's dissatisfaction with the decision in the case of *River Plate Bank v. Bank of Liverpool*. I had, to a certain extent, anticipated your suggestion by dealing with the case in this year's Gilbart Lectures, but of course four hours is a very short space in which to treat at any length the many important cases I had to consider this year, and I am conscious there are several points with regard to this case to which I should like to devote a good deal more discussion. I am afraid it is not within the function of the Institute of Bankers to promote appeals, even in cases like this of interest to the whole banking community, and possibly the present case was not a very good one to select for the purpose, inasmuch as the length of time which had elapsed between the payment and the discovery and notification of the forgeries had very obviously altered the position of the payee, and thereby strengthened his case, at any rate under the second branch of the rule, as laid down by Chalmers and others.

I am not surprised to hear that Mr. Justice Mathews' decision has created a good deal of concern. On the whole, however, I think it is correct, though I cannot concur with all the steps by which he arrives at it.

With regard to the earlier cases he seems to take this attitude: "It "would be unreasonable to find negligence against the payor because he did "not detect a forgery even of a signature with which he was supposed to be "acquainted, as of a drawer or customer, therefore the Court in the earlier "cases could not have decided on that ground, therefore they did not."

But if the earlier cases themselves are looked at, it is pretty clear that the supposition of negligence, whether well founded or not, did constitute a ground, if not in some cases, the main ground of decision. To take those quoted by Mr. Justice Mathew: *Smith v. Macer*, Dallas, C. J., expressly

said the neglect was a sufficient ground; Heath, B., said the payor was bound to know the handwriting; and Gibbs, C. J., said defendants have lost recourse through the negligence of the plaintiffs. In *Price v. Neal*, reliance is placed on the assumption of negligence, though, perhaps, not so prominently. Even in *Cocks v. Masterman*, the case relied on by Mr. Justice Mathew, the Court expressly says toward the end of the judgment: "The parties who pay the bill ought not *by their negligence* to deprive the holder of any right or privilege." It seems therefore, as I say, erroneous to conclude as Mr. Justice Mathew does, that in these cases the Court was not influenced by the question of negligence; and if negligence were the test it is difficult to see how there can be any negligence in paying on the forged endorsement of a person with whose signature the payor had no familiarity, or on paying on a forgery of a known signature, if the forgery be sufficiently expert. In either case the question might be one to be decided on the circumstances taken as a whole.

The ground on which I consider Mr. Justice Mathew's judgment can be far more plausibly supported is that based on the now recognized rule that the holder of a bill is entitled at once on presentation to know the fate of the bill. That was certainly the main ground in *Cocks v. Masterman*, also I think in *Price v. Neal*. Vagliano's case was not quoted to Mr. Justice Mathew, but the rule is there laid down in the House of Lords in the clearest and strongest manner, by Lord Macnaghten in particular. Now, no answer can be so emphatic as payment, and it seems to me that the rule would be altogether nullified if an answer so given could be retracted on discovery of a mistake. If it could be retracted in any case it would certainly only be where it could be proved beyond question that the position of the payee had not, and could not, have changed between payment and demand. This rule, of course, is altogether apart from negligence, and therefore draws no distinction between payment on different classes of signature.

No doubt the case points to a risk to bankers with regard to bills, but with respect to cheques which you mention in your letter, I should think Sec. 60 of the Bills of Exchange Act, where that Act is in force, would protect the banker by enabling him to charge his customer, notwithstanding the forgery.*

With regard to bills, there is the often suggested plan of the acceptor's domiciling the bill with himself and paying it by cheque on his bankers, but London bankers always reject this idea as impossible in view of existing competition, and I have no doubt they are right. I have not as yet considered whether any other, and if so, what steps could be adopted which would minimize danger while being at the same time practically feasible.

Believe me, dear sir,

Yours very faithfully,

(Sgd.) J. R. PAGET

TORONTO, August 14th, 1896

DEAR SIR,—On behalf of the Editing Committee of the JOURNAL, I beg to tender you our best thanks for your interesting letter of 23rd May, respecting the case of the *London & River Plate Bank v. Bank of Liverpool*.

The view taken of the law on the point in this country may be gathered from the judgment in *Ryan v. Bank of Montreal*, which was made a test case in connection with a number of frauds affecting several banks. The judgment was accepted by the other banks as conclusive. This case will be found reported in Ontario Reports 12, page 39, and Appeal Reports (Ontario), 14, page 533.

We have discussed your letter with the counsel for the Association. As

*This refers to the clause in the English Act protecting bankers who pay cheques drawn to order on which the endorsements are forged. We have no such protection in Canada.—ED. COM.

he was leaving town for a holiday, we had not an opportunity of going into the matter very fully, but his views, in which we think most bank solicitors in Canada would concur, and which are quite in accord with your own on the question of negligence, are that the rule on which you would support the judgment is inapplicable to the present case. It is no doubt true that the holder of a bill is entitled, on presentation, to know its fate, but the whole point in this case is that the defendant was not the "holder" but merely had possession of the document without any title thereto. In Vagliano's case, it was held that the bills were in effect payable to bearer, therefore that the party presenting them for payment was in the position of a holder in due course.

A strict application of the rule which you quote would seem to be quite consistent with a right on the part of the payor to reclaim the money, should it be found afterwards that it was paid to a person who had not a good title to receive it. The "fate" of the bill which the holder is entitled to know at once would seem to us to have only to do with the ability and willingness of the acceptor to pay the "holder" at once. It is not reasonable that it should be made to include the immediate waiving of all objections to the holder's title, derived in this case through endorsements of people on the other side of the world.

The reasoning in the judgment of Mr. Justice Mathew seemed to us defective. The position of the Bank of Liverpool would not be compromised if on such grounds as we have suggested they were compelled to repay the money. If they were held liable to repay because they had received money to which they were not entitled, Larrinaga would on the same grounds be liable to repay them, and they would in turn have recourse against Loychate & Co., and so the loss would fall on the persons who were responsible for it, and who had had it in their power to avoid it.

The rule which we consider applicable in all these cases is simply that which obliges a person who has received money under a mistake to pay it back.

As regards the protection of bankers, we have not, unfortunately, the same law here as in England respecting cheques payable to order and not crossed. We have to pay them at our peril, so that we are very greatly interested in the matter.

We should be glad of a further expression of your views, and also of your permission to publish your letters in the JOURNAL.

Yours truly,

(Sgd.) J. H. PLUMMER,
Chairman, Editing Committee

4 PAPER BUILDINGS, TEMPLE,
LONDON, September 23rd, 1896

DEAR SIR,—I beg to thank you for your letter of the 14th ultimo. I quite appreciate the points it raises. But I would suggest that the following considerations may meet them :

As to a person in possession of a bill on which there is a forged indorsement not being a holder—holder is an ambiguous term. A forged indorsement precludes anyone subsequently taking the bill from acquiring any title to it, or any right against any party to the bill antecedent to the forgery. But if he takes the bill honestly and for value, it seems to me that he is a holder in due course. Surely the definition of holder in due course includes him, and the term is used in Sec. 55 obviously with reference to a bill on which there has been a forged indorsement. He has rights on the bill against indorsers subsequent to the forgery. The ground of commercial necessity which justifies the requirement of an immediate answer as to the fate of a bill is just as applicable to a person who is perfectly honestly in possession of the bill and

knows nothing about the forgery which constitutes a blot on his title. And if payment is made to him I do not see how afterwards the payor can contend that the payment was merely equivalent to an answer that the bill would be paid to another person who answered certain conditions. The answer can only be of commercial value if it applies to the person who asks the question.

Then as to giving notice of dishonor. The remedy of the holder who had to refund against his indorser seems to be on the bill, and lost by not giving notice of dishonor. The provisions of Sec. 55 as to indorsements constitute estoppels which prevent the indorser from raising the question of forgery in an action against himself. They do not make it a question of warranty, as in the case of transfer by delivery under Sec. 48. Possibly the case of a bill payable or become payable to a bearer and so transferred would thus differ from the case of an indorsed bill, but with indorsed bills it seems to me their giving notice of dishonor is a condition precedent to such action on the indorsement, and if not given the indorser is discharged.

It seems to have been assumed that if the money were to be reclaimed at once that would be equivalent to dishonor of which notice might be given. I rather doubt this. To constitute dishonor there must be non-payment on presentation, and if the bill is paid on presentation, I hardly see how the forced repayment of the money could constitute dishonor, but it comes to the same thing, for if there has been no dishonor there is no remedy against the indorser.

I have no objection to the publication of this correspondence in your journal if you wish it.

Believe me, yours faithfully,

(Sgd.) J. R. PAGET

The discussion of the case in the "Gilbart" Lectures, to which Mr. Paget refers in the above correspondence, is here given:

In dealing with the question of payment of bills in mistake of fact, the next point is as to the position of the party receiving payment being altered before the discovery and notification of the mistake. Very nice questions formerly arose on this. If the payee had spent the money, if he had lost his right of recourse against other parties, then he was held to have had his position altered and kept his money, otherwise if the other conditions existed, it was supposed he might have to refund.

But now, if we accept a recent and remarkable judgment of Mr. Justice Mathew, all this is practically old and obsolete learning. The case was that of *The London and River Plate Bank v. The Bank of Liverpool*, decided on November 8th last year. There a bill had been paid without negligence to an innocent payee on a forged indorsement. The forgery was not found out for some time, and then the payers, the plaintiff bank, sought to get the money back; the defendants had lost their right of recourse to prior indorsers, but that was not the ground Mr. Justice Mathew went on. For his judgment gives the go-by to all the tests which Mr. Chalmers and many others with him have been in the habit of applying to cases of this sort. As to negligence, he most ably reviews the cases, which have been supposed to have been decided on this ground, cases, generally speaking, where a banker or acceptor has been misled by the forgery of the signature of his customer or correspondent, and shows conclusively that the supposed negligence was not the ground of decision. Nor indeed could it be. The only element of supposed negligence in these cases was the failure to detect the forgery of a signature presumed to be known. As the judge says, if the forgery was cleverly executed, neither reasonable nor any amount of care would enable the banker or acceptor to know that it was a forgery, and it would seem extraordinary that

the rights of the banker or acceptor to recover the money paid to the holder should depend on whether or not the forgery was cleverly executed, for that is what it comes to.

Of course you cannot debit your customer if you pay a bill or cheque with his signature forged, but that is not because you are negligent in so doing; it is because you have parted with his money without his authority; nor can you charge him with money you have paid on a bill, not on demand, with a forged indorsement, but that is because you have paid the wrong person, so these cases are entirely different. Mr. Justice Mathew therefore thus decides that negligence or no negligence is not an important or any factor in these cases. So also with regard to the other part of the supposed rule, namely, that the money may be recovered where the position of the payee has not been altered; the new rule laid down by Mr. Justice Mathew puts that also on a very different footing to that laid down by Mr. Chalmers.

Referring to a case called *Cocks v. Masterman*, decided as long ago as 1829, he says that there the simple rule was laid down in clear language for the first time that when a bill becomes due and is presented for payment, the holder ought to know at once whether the bill is going to be paid or not. I have looked at that case; it was one where Cocks the bankers sought to recover money they had paid on a forged acceptance. The fraud was discovered the next day, and the bankers gave notice to the person to whom they had paid it. There were several prior indorsers.

And the decision of the Court was, as Mr. Justice Mathew states it, with this difference, that the Court state the right of the holder to be that he is entitled to know on the day when it becomes due whether the bill is going to be honored or dishonored. They seem to have had the same idea as the judge. I have told you about who said that a bank was entitled to a reasonable time in which to decide whether they would pay a bill, a reasonable time within which to make enquiries. Now Mr. Justice Mathew, while quoting this case as an authority, has gone a little further, improved upon it, so to say. For instead of giving the payee a day's space in which to answer as to the fate of the bill, instead of constraining the holder to wait if required for that period to learn that fate, he says the payer is bound to answer at once, and the payee is entitled to an immediate answer, and I believe he is right.

Vagliano's case was not cited to him, but you may remember that in that case, the idea that a banker was entitled to a reasonable period in which to make enquiries before he honored or dishonored a bill, was scouted by one or more of the law lords. You must say "Yes" or "No" at once. And so I think Mr. Justice Mathew's advance on *Cocks v. Masterman* is absolutely right. Granted the principle that the holder is entitled to know the fate of his bill, I am of opinion that he is entitled to know it at once, and that there is no ground or authority for the respite of the residue of the day. Again, so far as this part of the question is concerned I think there is a strong show of right in favor of Mr. Justice Mathew's view. You see it is not a question of waiting for an answer as to the fate of a bill. I can understand i s being reasonable, though it is not the law, that the acceptor, and still more the banker, who has not the same means of knowledge, should have a breathing space in which to decide whether he will pay or not. But it seems to me that when you have paid, you have given your answer, and if you are to be allowed at all to retract that answer, the terms and conditions on which you may do so are not unfairly a good deal sharper than where the matter is treated as being in suspense.

Cocks v. Masterman was not an unknown case, but I much doubt whether anybody ever got the heart out of it in this way before. The simple rule, everything in favor of negotiability, a sort of Juggernaut's car, is sufficient for the decision. Utterly apart from any question of negligence, utterly apart from any doctrine of the general law as to payment under mistake of fact, if

you once pay on a bill, woe betide you, and only in the most exceptional circumstances, almost by a miracle, have you the remotest chance of ever seeing your money again.

In *Cocks v. Masterman*, the Court, following out their idea of the holder's right to know the fate of his bill not being exercisable till the close of the business day, declined altogether to express any opinion as to what would be the rights of the payer, provided he discovered his mistake and claimed repayment within the same period. But here again Mr. Justice Mathew goes a step beyond their more guarded and cautious judgment. He admits that if the mistake is discovered at once, it may be that the money can be recovered back, but if it be not and the money is paid in good faith, and is received in good faith, and there is an interval of time in which the position of the holder may (not, note you, must) be altered, the principle, he says, seems to apply that money once paid cannot be recovered back. "That rule [I am "quoting from his judgment], is obviously as it seems to me, indispensable "for the conduct of business. A holder of a bill cannot possibly fail to have "his position affected if there be any interval of time during which he holds "the money as his own, or spends it as his own, and if he is subsequently "sought to be made responsible to hand it back." And then he goes on to throw overboard all nice distinctions as to any specified period of time within which notification of the mistake may avail the payer, all hard and fast rules as to the method in which the position of the payee must or even may have been altered, whether or not he has lost his right of recourse to prior indorsers, to solve in fact in trenchant style the question which the Court in *Cocks v. Masterman* were so careful to leave open. For not only, as I have told you, does he substitute "any interval of time," for the day spoken of in that case, but he goes on as follows:—"It may be that no legal right may "be compromised by reason of the payment. For instance, the acceptor may "pay the bill and discover on the same day that it is a forgery, and so inform "the holder of it. so that the holder would have time to give notice of dis-"honor to the other parties to the bill; but even in such a case it is manifest "that the position of a man of business may be most seriously compromised "even by the delay of a day. Now that clear rule is one that ought not to "be tampered with. It is one of the few rules of business which is perfectly "clear and distinct at present, and as it seems to me it is unimpeachable." Those are Mr. Justice Mathew's words, not mine. But I am not prepared to disagree with them. One must move with the times, and there is a strong tendency in law now-a-days to get rid of technicalities and arbitrary rules, and to look for ruling principles to mercantile usage and what is regarded as reasonable by business men. Specially has this been the case since the establishment of the Commercial Court over which Mr. Justice Mathew presides with conspicuous ability and success, and in which he decided this case and others which we shall have to notice. I think you ought to welcome the innovation. I think, on the whole, it is in your favor or will be. I think you will find the custom of bankers and the implication of reasonable terms between banker and customer will meet with readier and speedier recognition. But I must confess that the more recent decisions on the new lines, if I may so term them, have not been altogether encouraging to you. Take this one for instance. Formerly one might have said that unless the payee could show affirmatively that you had been neligent, that his position was altered between the time of your paying him the money and your asking him for it back, unless he could show that he had lost his right of recourse against somebody or had spent the money, or had incurred some obligation on the strength of having received it, particularly if you demanded it back the same day, you were, supposing the mistake to be a common one to both parties and in the transaction, entitled to get it back. But now it seems it is not so. Negligence is immaterial, and if he has had the money during any period, however short, during which his position may theoretically have been altered, you

cannot touch him. And this practically cuts your chances down to nil. Short of catching him within five minutes after he leaves your bank I don't see how you can do anything. For apart from the presumption in his favor that his position must have been altered, it ought not to be difficult for him to show, on the broad lines now laid down, that it actually has been altered.

Of course the whole thing is a graft on or exception from the ordinary law of payment in mistake of fact. If you pay a tradesman twice over for the same thing, however *bonâ fide* he may have received the money, and however much his position may have altered, you can get the money back at any time within six years. That payment in mistake on bills stood on a different footing was, as you see, recognized as long ago as 1829, on the ground of the exigencies of business. Those exigencies exist now in a larger degree. Mr. Justice Mathew has recognized that, and drawn the rule a bit sharper in consequence. I take it the rule applies equally to cheques as to bills. Cheques are perhaps not so essentially mercantile documents as bills, properly so called, but cheques are bills; the same reasoning seems to apply to them, and Mr. Justice Mathew clearly implies that they are within the scope of his judgment.

HOUSE OF LORDS[1]

Salomon (pauper) v. A. Salomon & Co., Ltd.[2]

S. formed a company to buy his own business at a price to be paid in cash and debentures. All the shares were held by S., except six held by six members of his family. Debentures for £10,000 were issued to S. In the winding-up of the company, *held*, reversing the decision of the Court of Appeal, that S. was not, in the circumstances, liable to indemnify the company against the debts which its assets were insufficient to pay.

This was an appeal from the decision of the Court of Appeal in *Broderip v. Salomon*, fully reported at p. 116 of vol. III of the JOURNAL.

The appellant, Aron Salomon, for about 30 years prior to 1892 carried on business as a leather merchant and hide factor and wholesale and export boot manufacturer, under the style of A. Salomon & Co. According to the evidence of the appellant and his son, the profits of the business were between £1,000 and £2,000 per annum. A limited company was formed in 1892 to carry on the business, and the original subscribers to the memorandum of association were the appellant, his wife and daughter, and his four sons, who each signed for one share.

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[1] Lord Halsbury, L.C., Lords Watson, Herschell, Macnaghten, Morris and Davey.

[2] *The Times Law Reports*

The appellant's business was sold to the company for £38,782, of which £16,000 was to be paid in cash or debentures, and at the first meeting of the directors, who consisted of the appellant and two of his sons, it was resolved to pay the appellant £6,000 in cash and £10,000 in debentures. These debentures were afterwards mortgaged by the appellant to one Edmund Broderip as a security for an advance of £5,000, but eventually these debentures were cancelled and £10,000 fresh debentures were issued to Edmund Broderip. In October, 1893, an order was made for the winding up of the company, at which date the company was indebted to unsecured creditors other than Aron Salomon to the amount of £7,733, the business of the company showing a loss of £2,600 a year. An action was brought by the liquidator of the company against the appellant, which was tried before Mr. Justice Vaughan Williams, who declared that the company were entitled to be indemnified by the appellant to the amount of £7,733. This decision was affirmed by the Court of Appeal. Against the latter judgment the present appeal was taken.

THE LORD CHANCELLOR.—The important question in this case, which I am not certain is not the only question, is whether the respondent company was a company at all; whether, in truth, that artificial creation of the Legislature had been validly constituted in this instance; and, in order to determine that question, it is necessary to look at what the statute itself has determined in that respect. I have no right to add to the requirements of the statute, nor to take from the requirements thus enacted. The sole guide must be the statute itself. Now, that there were several actual living persons who held shares in the company has not been doubted. As to the proportionate amounts held by each I will deal presently; but it is important to observe that this first condition of the statute is satisfied, and it follows as a consequence that it would not be competent to anyone, and certainly not to these persons themselves, to deny that they were shareholders. I must pause here to point out that the statute enacts nothing as to the extent or degree of interest which may be held by each of the seven, or as to the proportion of interest or influence possessed by one or the majority of the shareholders over the others. One share is enough. Still less is it possible to contend that the motive of becoming shareholders or of making them shareholders is a field of inquiry which the statute itself recognizes as legitimate. If they are shareholders they are shareholders for all purposes,

and, even if the statute was silent as to the recognition of trusts, I should be prepared to hold that if six of them were the *cestui que* trusts of the seventh, whatever might be their rights *inter se*, the statute would have made them shareholders to all intents and purposes with their respective rights and liabilities; and dealing with them in their relation to the company, the only relations which I believe the law would sanction would be that they were corporators of the corporate body. I am simply here dealing with the provisions of the statute, and it seems to me to be essential to the artificial creation that the law should recognize only that artificial existence, quite apart from the motives or conduct of individual corporators. In saying this I do not at all mean to suggest that if it could be established that this provision of the statute to which I am adverting had not been complied with you could not go behind the certificate of incorporation to show that a fraud had been committed upon the officer intrusted with the duty of giving the certificate, and that by some proceeding in the nature of *scire facias* you could not prove the fact that the company had no real legal existence. But short of such proof it seems to me impossible to dispute that once the company is legally incorporated, it must be treated like any other independent person with its rights and liabilities appropriate to itself, and that the motives of those who took part in the promotion of the company are absolutely irrelevant in discussing what those rights and liabilities are. I will, for the sake of argument, assume the proposition that the Court of Appeal lays down, that the formation of the company was a mere scheme to enable Aron Salomon to carry on business in the name of the company. I am wholly unable to follow the proposition that this was contrary to the true intent and meaning of the Companies Act. I can only find the true intent and meaning of the Act from the Act itself, and the Act appears to me to give a company a legal existence with, as I have said, rights and liabilities of its own, whatever may have been the ideas or schemes of those who brought it into existence. I observe that the learned Judge (Mr. Justice Vaughan Williams) held that the business was Mr. Salomon's business and no one else's, and that he chose to employ as agent a limited company. And he proceeded to argue that he was employing that limited company as agent, and that he was bound to indemnify that agent—the company. I confess it seems to me that that learned Judge becomes involved by this argument in a very singular contradiction. Either the limited company was a legal entity or it was not. If it was, the business belonged to it and not to Mr. Salomon. If it was not, there was no person and no thing to be an agent at all; and it is impossible to say at the same time that there is a

company and there is not. Lord Justice Lindley, on the other hand, affirms that there were seven members of the company, but, he says, it is manifest that six of them were members simply in order to enable the seventh himself to carry on business with limited liability; the object of the whole arrangement is to do the very thing which the Legislature intended not to be done. It is obvious to inquire, where is that intention of the Legislature manifested in the statute? Even if we were at liberty to insert words to manifest that intention, I should have great difficulty in ascertaining what the exact intention thus imputed to the Legislature is or was. In this particular case it is the members of one family that represent all the shares; but if the supposed intention is not limited to so narrow a proposition as this, that the seven members must not be members of one family, to what extent may influence or authority or intentional purchase of a majority among the shareholders be carried so as to bring it within the supposed prohibition? It is, of course, easy to say that it was contrary to the intention of the Legislature—a proposition which, by reason of its generality, it is difficult to bring to the test; but when one seeks to put as an affirmative proposition what the thing is which the Legislature has prohibited, there is, as it appears to me, an insuperable difficulty in the way of those who seek to insert by construction such a prohibition into the statute. As one mode of testing the proposition it would be pertinent to ask whether two or three, or, indeed, all seven, may constitute the whole of the shareholders. Whether they must be all independent of each or other in the sense of each having an independent beneficial interest—and this is a question that cannot be answered by the reply that it is a matter of degree. If the Legislature intended to prohibit something, you ought to know what that something is. All it has said is that one share is sufficient to constitute a shareholder, though the shares may be 100,000 in number. Where am I to get from the statute itself a limitation of that provision that that shareholder must be an independent and beneficially interested person? I find all through the judgment of the Court of Appeal a repetition of the same proposition to which I have already adverted—that the business was the business of Aron Salomon, and that the company is variously described as a myth and a fiction. Lord Justice Lopes says:—"The Act contemplated the incorporation of seven independent *bona fide* members, who had a mind and a will of their own, and were not the mere puppets of an individual who, adopting the machinery of the Act, carried on his old business in the same way as before, when he was a sole trader." The words "seven independent *bona fide* members with a mind and will of their own and not the puppets of an individual" are by construction to be read into the

Act. Lord Justice Lopes also said that the company was a mere *nominis umbra*. Lord Justice Kay says:—"The statutes were intended to allow seven or more persons *bona fide* associated for the purpose of trade to limit their liability under certain conditions and to become a corporation. But they were not intended to legalize a pretended association for the purpose of enabling an individual to carry on his own business with limited liability in the name of a joint stock company." The learned Judges appear to me to not have been absolutely certain in their own minds whether to treat the company as a real thing or not. If it was a real thing, if it had legal existence, and if, consequently, the law attributed to it certain rights and liabilities in its constitution as a company, it appears to me to follow as a consequence that it is impossible to deny the validity of the transactions into which it has entered. Mr. Justice Vaughan Williams appears to me to have disposed of the argument that the company, which for this purpose he assumed to be a legal entity, was defrauded into the purchase of Aron Salomon's business, because assuming that the price paid for the business was an exorbitant one, as to which I am myself not satisfied, but assuming that it was, the learned Judge most cogently observes that when all the shareholders are perfectly cognizant of the conditions under which the company is formed and the conditions of the purchase, it is impossible to contend that the company is being defrauded. The proposition laid down in *Erlanger v. the New Sombrero Phosphate Company*—I quote the head note—is that "Persons who purchase property and then create a company to purchase from them the property they possess, stand in a fiduciary position towards that company, and must faithfully state to the company the facts which apply to the property, and would influence the company in deciding on the reasonableness of acquiring it." But if every member of the company, every shareholder, knows exactly what is the true state of the facts, which for this purpose must be assumed to be the case here, Mr. Justice Vaughan William's conclusion seems to me to be inevitable—that no case of fraud upon the company could here be established. If there was no fraud and no agency, and, if the company was a real one and not a fiction or a myth, every one of the grounds upon which it is sought to support the judgment is disposed of. The truth is that the learned Judges have never allowed in their own minds the proposition that the company has a real existence. They have been struck by what they have considered the inexpediency of permitting one man to be, in influence and authority, the whole company, and assuming that such a thing could not have been intended by the Legislature, they have sought various grounds upon which they might insert into the Act some prohibition of such a result. Whether such

a result be right or wrong, politic or impolitic, I say, with the utmost deference to the learned Judges, that we have nothing to do with that question if this company has been duly constituted by law, and, whatever may be the motives of those who constitute it, I must decline to insert into that Act of Parliament limitations which are not to be found there. I have dealt with this matter upon the narrow hypothesis propounded by the learned Judges below, but it is, I think, only justice to the appellant to say that I see nothing whatever to justify the imputations which are implied in some of the observations made by more than one of the learned Judges. The appellant, in my opinion, is not shown to have done, or to have intended to do, anything dishonest or unworthy, but to have suffered a great misfortune, without any fault of his own.

The result is that I move your Lordships that the judgment appealed from be reversed, but as this is a pauper case I regret to say that it can only be with such costs in this House as are appropriate to that condition of things, and that this appeal be dismissed with costs to the same extent.

Lords Watson and Herschell delivered judgment to the same effect, and the other noble and learned lords having concurred, the decision of the Court below was reversed.

QUEEN'S BENCH DIVISION, ENGLAND

Kirkwood v. Smith and another*

A condition added to an instrument purporting to be a joint and several promissory note, that "no time given to, or security taken from, or composition or arrangement entered into with, either party hereto, shall prejudice the rights of the holder to proceed against any other party." invalidates the instrument as a promissory note.

This was the plaintiff's appeal from the decision of the County Court Judge. The plaintiff sued to recover by the summary procedure under the Bills of Exchange Act, 1855, a loan and interest due upon an instrument executed by the defendants, which he alleged was a promissory note. The defendants admitted the execution of the document, but objected that the instrument was not a promissory note and that the plaintiff had no summary remedy. This objection was upheld by the County Court Judge and the plaintiff was non-suited.

**The Law Reports*

The following is a copy of the instrument :

Brighton, 5th day of December, '94.

£15 os. od.

We jointly and severally promise to pay the Southern Counties Deposit Bank, Ltd., or order, the sum of Fifteen pounds, for value received, by instalments in the manner following, that is to say, the sum of One pound on the 5th day of January next, and the sum of One pound on the 5th day of each succeeding month until the whole of the Fifteen pounds shall be fully paid ; and in case default is made in the payment of any one of the said instalments, the whole amount remaining unpaid shall be due and payable forthwith, together with interest at the rate of a half-penny on the shilling per week from the day of such default on the aggregate amount of the instalments then remaining unpaid until actual payment thereof. No time given to, nor security taken from, or composition or arrangement entered into with either party hereto, shall prejudice the rights of the holder to proceed against any other party.

Payable at 69 Ship Street, Brighton.

HENRIETTA ANN SMITH
CLARA MAUD SMITH
her daughter

LORD RUSSELL OF KILLOWEN :—This is a small point, but nevertheless one of some importance. The sole question is as to whether the document is of a mercantile character, so as to enable the plaintiff to avail himself of the summary procedure provided by the Bills of Exchange Act of 1855. On the whole, and not altogether without doubt, I am of opinion that the learned County Court Judge was right. The Bills of Exchange Act, 1882, is a codification of the existing law. Sec. 83 defines certain qualifications which are admissible and are not inconsistent with the fact of an instrument being a promissory note. I think it is safer to take the provisions of sub-section 3 by which "a note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof," as importing that, if the document contains something more than is there referred to, it would not be valid as a promissory note. I think, therefore, that this instrument is not a promissory note.

WRIGHT, J. :—I agree. This instrument, in my opinion, does contain something more than a promissory note as defined by the Act of 1882.

Appeal dismissed.

SUPREME COURT OF CANADA

Richards (defendant) Appellant, and Bank of Nova Scotia (plaintiff) Respondent*

Where an agent does an act outside of the apparent scope of his authority, and makes a representation to the person with whom he acts to

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**Supreme Court Reports.*

advance the private ends of himself or someone else other than his principal, such representation cannot be called that of the principal. In such a case it is immaterial whether or not the person to whom the representation was made believed the agent had authority to make it.

The main facts of this case are as follows:

The agent of the Bank of Nova Scotia at Newcastle, N.B., was one F. R. Morrison. Besides acting as agent of the bank, Morrison carried on business for himself without the knowledge of the bank, and was in the habit of applying to customers of the bank for accommodation under various pretences. As part of his plan of financing, drafts were made or accepted by his brother, J. A. Morrison, doing business at Halifax. Sometime in 1892 J. A. Morrison drew upon the defendant, Richards, without authority, and the draft was discounted with the respondent bank at Halifax before acceptance, and was by the bank sent on to its Newcastle agency, where Richards resided, for acceptance and to be retained there for collection.

F. R. Morrison, who knew that his brother had drawn without authority, and who was desirous, in the interest of his brother and presumably of himself, that the draft should not be returned for non-acceptance, endeavored to induce the defendant to accept, and finally prevailed upon him to do so by exhibiting certain goods and representing that they were held by the bank against the draft, and that the bank would see that the goods were sold and would look after the draft.

In a somewhat similar manner Richards was prevailed upon to draw a draft upon a party residing in another place.

Both drafts were dishonored at maturity, Morrison, the bank's agent, having died in the meantime, and the bank sued Richards as drawer and acceptor respectively of the drafts.

At the trial the jury found that the representations were made by F. R. Morrison and *bona fide* believed in by the defendant, and that he became a party to the drafts upon the faith thereof; and that the statements were untrue to the knowledge of F. R. Morrison; also that the representations were not within the apparent scope of the latter's authority as agent of the bank, and that there were such suspicious circumstances in connection with the alleged representations as to put defendant on enquiry, or to make it his duty to enquire as to the truth of the statements and the authority of the agent to make them.

The learned trial judge upon these findings directed a verdict for the defendant.

The Supreme Court of New Brunswick directed a verdict to be entered for the plaintiff for the amount of both drafts, and the present appeal was from such judgment.

It was held, affirming the decision of the Supreme Court of New Brunswick, that the bank was not bound by such representation; that by taking the benefit of the acceptance it could not be said to adopt what the manager said in procuring it, which would burden it with responsibility instead of conferring a benefit; and that the knowledge of the manager with which the bank would be affected should be confined to knowledge of what was material to the transaction and the duty of the manager to make known to the bank.

COURT OF APPEAL, ONTARIO

Trusts Corporation of Ontario v. Hood*

Principal and Surety.

The facts and finding in this case are sufficiently indicated in the following brief statement:

The assignor of a mortgage covenanted with the assignee that the mortgage money should be duly paid. The assignee subsequently took a new mortgage on the same land, for the same debt, from a third party who bought the land from the original mortgagor, but refused to discharge the old mortgage. The new mortgage extended the time for payment, and contained the usual re-demise clause, to the effect that until default the purchaser should have possession of the land, but this mortgage was not executed by the mortgagee. There was a verbal understanding between the assignor and the assignee, that the latter should retain the old mortgage, and in effect that the new mortgage should not operate as a satisfaction of the old mortgage.

It was held by the Court, affirming the judgment of the Common Pleas Division (27 *Ontario Reports*, 135), that the obligation of the assignor to the assignee was that of a surety, but that he was not discharged by the taking of the new mortgage, as the rights under the old mortgage had been preserved. The new mortgage not having been executed by the mortgagee,

Ontario Appeal Reports.

the re-demise clause did not vest in the purchaser any right to the land which he could set up against the old mortgage. It was open to the surety to re-acquire the original mortgage, and to avail himself of his remedies thereunder against the original mortgagor, and against the land, notwithstanding the extended time for payment granted under the new mortgage.

COURT OF APPEAL, ONTARIO

Niagara District Fruit Growers' Stock Co. v. Walker*

Principal and Surety.

The facts in this case, and the principle affirmed by the judgment, are, for the purposes of the JOURNAL, sufficiently indicated in the following brief summary:

An agent was engaged by the plaintiffs from year to year for four years to sell fruit on their behalf on commission, one of the terms of the engagement being that all moneys should be paid in from day to day to their credit in a named bank. The agent made default in this respect, and a large balance was due by him to the plaintiffs at the end of each of the first three years, and the plaintiffs, at the end of each year, took his note for the amount due, payable in the next year. In each year he gave a bond to the plaintiffs to secure the faithful performance of his duties and the prompt payment of moneys received. The defendants were the sureties in the bond given in the fourth and previous years, and entered into the contract of suretyship without making any enquiries from the plaintiffs. This action was brought against them to recover the balance due.

It was held, reversing the judgment of Street, J., that the plaintiffs should have informed the sureties of the previous defaults, and not having done so could not enforce the bond.

HIGH COURT OF JUSTICE, ONTARIO

The Trusts Corporation of Ontario v. Rider†

A parol assignment of book debts is valid under the Mercantile Amendment Act, R.S.O. ch. 122, sec. 7, and does not require the assent of the debtor.

This was a special case wherein the plaintiffs were the

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*Ontario Appeal Reports.

†Ontario Reports.

administrators of the estate of Frank J. Rosar, late of the city of Toronto, undertaker, deceased, who died on December 15th, 1895, and the defendant was a wholesale dealer in undertakers' supplies, who sold extensively to Rosar, and stated as follows:—

At and prior to his decease, and at the time of the verbal assignments hereinafter referred to, Rosar was indebted in a considerable sum of money to the defendant: as security for such indebtedness Rosar endorsed over to the defendant promissory notes received by him from his customers in payment of funeral accounts, and duly assigned to the defendant by endorsement thereon in writing, certain book debts or accounts due him for funeral supplies and services: bills of accounts respecting other book debts due to Rosar from his customers, were from time to time by him handed to the defendant with the purpose and intent of assigning and transferring the same as security as aforesaid, any moneys collected therefrom to be applied in reduction of the indebtedness of Rosar to him: Rosar at the time of so handing the accounts or book debts to the defendant, used words which would, if in writing, constitute a valid legal assignment; but there was no assignment thereof by any form of writing. The plaintiffs contended that upon the above facts the defendant had no valid title to the book debts or accounts lastly mentioned. The parties prayed the Court to determine and declare to which of them the accounts lastly above mentioned, and all accounts or book debts of Rosar in like position belonged, and by whom the costs of the action should be borne.

The case was argued on February 12th, 1896, before Falconbridge, J., and judgment delivered as follows:

"It was a well-known doctrine in equity long before the Judicature Acts or our own Act in reference to assignments of choses in action, that a debt was assignable in equity and binding upon the debtor upon notice": Per Burton, J. A., in *Hall v. Prittie.*

And a parol assignment, if clearly proved, would be sufficient: *Heath v. Hall, Gurnell v. Gardner, Armstrong v. Farr.*

The provisions of the 35 Vict. ch. 12, sec. 1 (O.), were as follows:—

"Every debt and chose in action arising out of contract, shall be assignable at law by any form of writing, but subject to such conditions or restrictions with respect to the right of trans-

fer as are contained in the original contract; and the assignee thereof shall sue thereon in his own name in the action, and for such relief as the original holder or assignor of such chose in action would be entitled to sue for in any Court in this Province."

Then came the Ontario Judicature Act, 1881, 44 Vict. ch. 5, which provides (sec. 17, sub-sec. 10) that generally where there is any conflict or variance between the rules of equity and the rules of the common law, the former shall prevail (repeated in 58 Vict. ch. 12, sec. 53, sub-sec. 12).

The revision of 1877 had not altered the provisions of the 35 Vict. ch. 12; but in the revision of 1887 (ch. 122, sec. 7) the words "at law" are omitted.

It is contended for the plaintiffs that this is a new enactment, and that a writing is now imperative.

Commenting on the English section (Judicature Act 1873, sec. 25, sub-sec. 6), which is much more complex than ours, and in form deals more with procedure, the learned editors of Chitty on Contracts say: "This sub-section gives no new right of action which did not exist before; and it is submitted that it cuts down the powers of equitable assignment to the powers described in the section itself; so that for instance a parol assignment which was valid in equity before the Act is now invalid, though a contrary view has been put forward."

The "contrary view" was expressed in Coote on Mortgages, 4th ed., but in *In re Richardson, Shillito v. Hobson*, 30 Ch. D., Mr. Justice Kay thought the effect of the section was to prevent any interest in a debt or other chose in action passing without an assignment in writing.

I think, however, that the present case is to be determined adversely to the plaintiffs by the decisions and the dicta of the Judges in *Armstrong v. Farr*, *Hall v. Prittie*, and *Lane v. Dungannon Agricultural Park Association*.

The omission of the words "at law" in the revision of 1887 was probably made in view of the changes in law and practice effected by the Ontario Judicature Act, and it has, therefore, no significance at any rate except as a question of procedure. Here the assignee is not suing.

And the cases of *Farquhar v. Toronto*, *Lamb v. Sutherland*, and *Smith v. The Corporation of Ancaster Township*, seem to be in favor of the defendant as to the necessity of the assent of the debtor.

The defendant is, therefore, declared to be entitled to the accounts in paragraph 8 of the special case set forth and to all accounts or book debts of F. J. Rosar deceased in like plight and position, and I see no reason why he should not have his costs, which I accordingly award to him.

HIGH COURT OF JUSTICE, ONTARIO*

Seyfang v. Mann

By an agreement for the dissolution of a firm, it was provided that all claims and demands, notes, bills and book accounts belonging to the firm were to be collected by the plaintiffs, who were to be the owners thereof, and by virtue of which the plaintiffs sued defendant for a balance alleged to be due for goods sold and delivered by the firm to defendant, who set up a claim for damages for non-delivery of goods by the firm, which arose before the dissolution of the partnership :—

Held, a valid assignment of a debt due by defendant to the plaintiffs ; and that the defendants could set-off the claim for damages arising by reason of a breach of the agreement under which the debt arose.

The difference between the Imperial and Ontario Choses in Action Act referred to.

This was an action tried before Armour, C. J., without a jury, at London, at the Spring Assizes of 1896.

The plaintiffs claimed as assignees of a firm of Gibson & Prentiss to recover four sums amounting in all to $486.28, alleged to be due on sales of bicycles to the defendant during the year 1895.

The assignment was by virtue of an agreement, dated the 23rd of July, 1895, made between John H. Gibson and Andrew L. Prentiss, composing the firm of Gibson & Prentiss, whereby the partnership was "dissolved and terminated by mutual consent, and each of the parties hereto releases and discharges the other of and from any and all liability and obligation growing out of or in any wise connected with the said firm's business heretofore carried on by them under such firm name ; it being understood that all claims and demands, notes, bills and book accounts belonging to said firm above mentioned, belong to and will be collected by George Seyfang and Andrew L. Prentiss, who are the owners thereof."

The defence was that the firm of Gibson & Prentiss had, by a written agreement, dated 18th June, 1895, agreed to supply the defendant with 150 bicycles to be shipped as ordered, with a reasonable degree of promptitude, during 1895, and that although various shipments had been ordered, the firm had neglected, except to a small extent, to deliver the same, whereby the defendant was damnified ; and also that by the terms of the agreement, in consideration of the performance thereof, the defendant waived a claim for damages arising prior to the date

*Ontario Reports.

of the new agreement which he now claimed to set up; and that by virtue of the agreement for the dissolution of the firm of Gibson & Prentiss the plaintiffs were liable for the damages thus sustained by the defendant; and he countermanded therefor.

ARMOUR, C. J.: The plaintiffs are entitled to recover the sums as claimed in their statement of claim.

The defendant is entitled to recover damages for the breach of the agreement of the 18th June, 1895, by reason of the non-delivery of the bicycles thereby agreed to be delivered, as I find that there was no such conduct on the part of the defendant as amounted to a renunciation—to an absolute refusal to perform the contract, as would have amounted to a rescission if he had the power to rescind, and which the plaintiffs might accept as a reason for not performing the contract on their part.

And I find that the damages sustained by the defendant by reason of the breach of the said agreement, amount to $2,530.

This agreement was made by the defendant with Gibson & Prentiss, who dissolved partnership on the 23rd July, 1895, and gave notice thereof to the defendant on or shortly after the 25th July, 1895, by the agreement of dissolution, it being provided "that all claims and demands, notes, bills and book accounts belonging to said firm above mentioned, belong to and will be collected by George Seyfang and Andrew L. Prentiss, who are the owners thereof."

And the question arises whether the damages above assessed can be recovered against these plaintiffs, the assignees of the claims of Gibson & Prentiss against the defendant, and if so, to what extent.

In *Exchange Bank v. Stinson*, Osler, J., points out the difference in the language of the Imperial Act relating to choses in action and the assignment of them, and our Act, and shows that our Act "is more favourable to the debtor, for its effect is to preserve to him, not only all equities to which the claim assigned was subject, but also any legal set-off, whether connected with or arising out of the debt assigned or not, which he had against the assignor at the time of notice of the assignment. Anything which the debtor could avail himself of as an equitable set-off to the debt assigned would be a defence to which, under our Act, the assignment would be subject."

The provision in our Act being that the transfer shall be subject to any defence or set-off in respect of the whole or any part of the claim assigned as existed at the time of or before notice of the assignment to the debtor or other person sought to be made liable, in the same manner and to the same extent as such defence would be effectual in case there had been no as-

signment thereof, and such defence or set-off shall apply as between the debtor and any assignor of the debt or chose in action.

It seems to me that the defendant is entitled to recover the whole of the damages above assessed against these plaintiffs.

Judgment will, therefore, be for the plaintiffs against the defendant for the sums above mentioned with costs; and for the defendant against the plaintiffs for the damages so assessed with costs, each recovery to be set-off against the other, and the defendant to recover the balance against the plaintiff.

FIFTH DIVISION COURT, COUNTY OF VICTORIA

Birmingham v. Malone; Nealon, Garnishee*

Rent accruing, but not yet payable, can be attached in the Division Courts.

The garnishee was tenant to the primary debtor. A gale of rent was due on 15th March 1896. The garnishee summons was served on 14th March. The question to be decided was as to whether there was any debt due or owing, and therefore garnishable from the garnishee to the primary debtor at the time of such service.

DEAN, Co. J.—It is well settled that rent so accrued is garnishable in the other courts, but there is a notable difference in the wording of the Division Court and the Judicature Acts. By the former (sec. 173) a debt "due or owing" to the debtor may be attached, by the latter (see Rule 935) a debt "owing or accruing" may be attached.

The words of the Apportionment Act are (R.S.O., ch. 143, sec. 2): "All rents . . . shall, like interest on money lent, be considered as accruing from day to day, and shall be apportionable in respect of time accordingly."

By sec. 3 "the apportioned part of such rent . . . shall be payable or recoverable in the case of a continuing rent when the entire portion, of which such apportioned part forms part, becomes due and payable, and not before."

The rent is a daily accruing debt, and the Judicature Act makes a debt accruing attachable. The question here is, Is this accruing debt a debt "owing" within the meaning of the Division Court Act? . . .

If a man has money borrowed at interest, with the right to repay it at any time, though the lender had the right to call it in only at some future fixed date, the debtor would be "owing" the accrued interest from day to day, and if he went to pay his

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Canada Law Journal.

debt in advance of the time fixed, he would pay the accrued interest because he was "owing" it. If from any cause any rent, annuity or dividend ceases in the middle of a term, the accrued amount is "owing," though not due and payable till the end of the term. Nothing could afterwards happen to make it any more "owing," for all consideration has ceased, only judgment is postponed.

The words in the Apportionment Act, "accruing from day to day," mean that the rent shall become from day to day the property of the person who at the time has the right to it, and if it is his property it is owing to him, notwithstanding the modes prescribed by the Act for its recovery.

I think the difference in the wording of the Acts has come from inadvertence, and not from any intention of the Legislature to give a different effect in the different Courts to the same state of facts.

Judgment against garnishee.

Supreme Court of Wisconsin

Gifford v. Hordell[1]

The indorser of a bill is absolutely discharged if presentment be not made in a reasonable time.

This action was brought to recover against the defendant, as indorser, the amount of four cheques drawn on the Commercial Bank of Milwaukee, and indorsed to the defendant. The defendant, on the 17th July, 1893, sold and indorsed them to the plaintiff, and delivered them to the plaintiff's father, at Dousman, Waukesha county, Wis., who at once mailed them to the plaintiff, at New Richmond, Wis.

They were received by the latter, in due course of mail, July 18th, at 5 o'clock, p.m., and were at once delivered to the Manufacturers' Bank of New Richmond for collection. It immediately enclosed and mailed the checks to its bank correspondent in Chicago for collection, according to its usual custom, having no regular bank correspondent in Milwaukee. They were received and forwarded by the National Bank of Illinois, of Chicago, to Milwaukee, Wis., but were not presented for payment until the 21st of July.[2]

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[1] *Rhodes' Journal of Banking.*

[2] See foot note 2 next page.

The Commercial Bank of Milwaukee, upon which they were drawn, failed, closing its doors at the usual hour on the 20th of July.

The only question was whether the plaintiff, or his agent, the Manufacturers' Bank of New Richmond, Wis., which undertook the collection of the cheques, used due diligence in presenting them for payment. There was a direct mail route from New Richmond to Milwaukee, and thence to Chicago, the latter city being about eighty-five miles south of Milwaukee. The evening mail of the 18th of July at this time left New Richmond at 8.41 p.m., and would have reached Milwaukee at eleven o'clock in the forenoon of the 19th, and Chicago at about one o'clock of the same day; and the cheques arriving at Milwaukee as above stated, could have been presented for payment at ten o'clock in the morning of the 20th, while the bank on which they were drawn was honoring its cheques.

The court held that sending them by way of Chicago for collection was not the use of reasonable diligence in presenting

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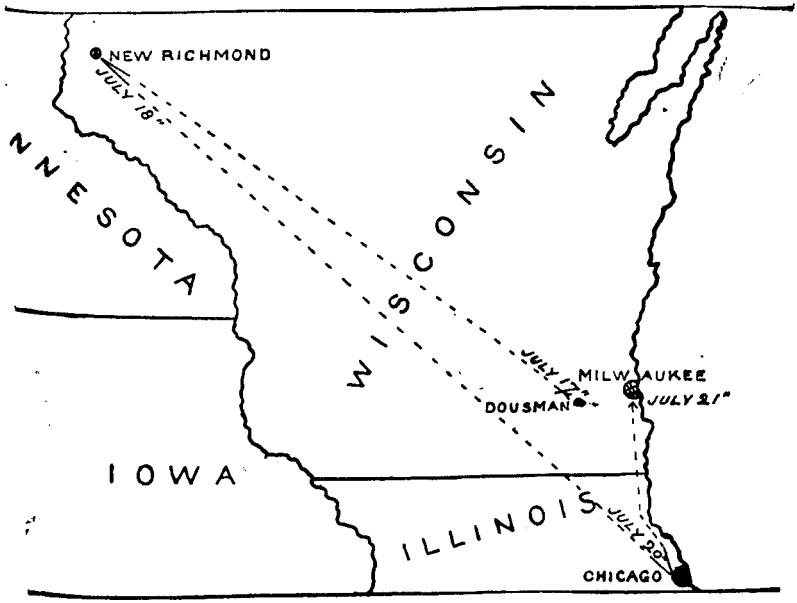
[2]The route thus traversed by the cheques was a curious one, as will be seen by the following sketch:



them for payment, and directed a verdict for the defendant, and from a judgment thereon in favor of the defendant the plaintiff appealed.

From the judgment on appeal, confirming the decision of the lower court, the following is extracted:

The period of reasonable time for presentation, as between the plaintiff and the defendant, as indorser, undoubtedly began when the cheques were delivered to the plaintiff's father for him, at Dousman, Waukesha county, Wis., on the 17th July. The drawer of a cheque cannot rightfully withdraw his funds necessary for the payment of it upon proper presentation, and it would be unjust to hold that, however long the holder might permit the fund to remain, it should be at the drawer's risk. Hence, the cheque must be presented within a reasonable time, or the indorser will be discharged, and the fund is at the risk of the holder, if he permits the deposit to remain. No transfer, or series of transfers, can prolong the risk of the drawer or indorser beyond this period, though each party is allowed the same period, as between himself and his immediate predecessor, that the payee had, as between himself and the drawer; for no transferee can stand on any better footing than his transferrer, in respect to the time within which the cheque must be presented in order to render the drawer's or previous indorser's liability absolute in the event of the failure of the bank. (Daniel, Neg. Inst. § 1595, and cases in note.) The rule of diligence, as between indorsee and indorser, is the same as between payee and drawer. This requires, in general, that where the payee receives the check from the drawer in a place distant from the place where the bank on which it is drawn is located, it will be sufficient for him to forward it by post to some person at the latter place on the next secular day after it is received, and then it will be sufficient for the person to whom it is thus forwarded to present it for payment on the day after it has reached him by due course of mail. When the defendant delivered the checks, properly indorsed, at Dousman, Wis., on the 17th of July, he had a right to assume and expect that the plaintiff, or his father, would present them for payment within a reasonable time, and they took the risk of making such presentment. Instead, they were sent several hundred miles to the north-west of Milwaukee, to New Richmond, thence to Chicago, from which point they were forwarded to Milwaukee for payment, as before stated. It is clear that they were not presented for payment within a reasonable time after indorsement and delivery by the defendant, and the judgment of the county court was therefore correct.

UNREVISED TRADE RETURNS, CANADA

(000 omitted)

IMPORTS

Quarter ending 30th September—	1895		1896	
Free	$10,056		$11,006	
Dutiable	17,163		17,690	
	$27,219		$28,696	
Bullion and Coin	2,206	$29,425	3,988	$32,684
Month of October—				
Free	$ 3,820		$ 4,109	
Dutiable	5,669		5,047	
	$ 9,489		$ 9,156	
Bullion and Coin	897	$10,386	135	$ 9,291
Total for four months		$39,811		$41,975

EXPORTS

Quarter ending 30th September—				
Products of the mine	$1,930		$2,441	
" Fisheries	3,168		2,567	
" Forest	10,236		12,315	
Animals and their produce	13,294		10,941	
Agricultural produce	1,511		2,655	
Manufactures	2,266		2,309	
Miscellaneous	74		49	
	$32,481		$33,279	
Bullion and Coin	176	$32,657	2,830	$36,109
Month of October—				
Products of the mine	$ 671		$ 879	
" Fisheries	2,505		2,349	
" Forest	2,903		3,104	
Animals and their produce	4,121		4,538	
Agricultural produce	1,469		1,599	
Manufactures	810		889	
Miscellaneous	14		19	
	$12,496		$13,381	
Bullion and Coin	31	$12,527	294	$13,675
Total for four months		$45,184		$49,784

SUMMARY (in dollars)

For four months—	1895	1896
Total exports other than bullion and coin	$44,977,000	$46,660,000
Total imports " " "	36,708,000	37,852,000
Excess of exports	8,269,000	8,808,000
Net imports of bullion and coin	2,896,000	1,001,000

STATEMENT OF BANKS acting under Dominion Government charter for the months of September, October and November, 1896, and comparison with November, 1895:

LIABILITIES

	30th Sept., 1896	31st Oct,. 1896	30th Nov., 1896	30th Nov., 1895
Capital authorized	$ 72,958,685	$ 72,958,685	$ 72,958,685	$ 73,458,685
Capital paid up	61,725,269	61,725,369	61,725,769	62,094,573
Reserve Fund	26,373,799	26,373,799	26,438,799	27,233,799
Notes in circulation	$ 32,652,176	$ 35,955,150	$ 35,262,599	$ 34,362,746
Dominion and Provincial Government deposits	7,503,960	5,567,285	5,380,143	8,188,906
Public deposits on demand	65,827,150	67,312,835	70,051,597	67,573,438
Public deposits after notice	123,436,216	125,525,470	126,791,355	120,264,326
Bank loans or deposits from other banks secured	5,000	5,000	155,000	28,240
Bank loans or deposits from other banks unsecured	2,858,277	2,822,902	2,751,050	2,686,202
Due other banks in Canada in daily exchanges	76,980	83,926	87,639	115,580
Due other banks in foreign countries	257,759	277,768	169,207	220,985
Due other banks in Great Britain	1,939,597	2,014,501	2,346,270	3,704,022
Other liabilities	253,409	413,114	1,020,541	1,172,322
Total liabilities	$234,810,603	$239,978,040	$244,015,473	$238,316,844

ASSETS

Specie	$ 8,199,989	$ 8,844,025	$ 8,306,639	$ 7,349,768
Dominion notes	15,054,501	14,720,782	14,811,770	16,031,512
Deposits to secure note circulation	1,847,081	1,834,294	1,836,218	1,814,624
Notes and cheques of other banks	6,973,648	7,149,216	9,441,263	7,163,592
Loans to other banks secured	.....	150,000	260,786	23,240
Deposits made with other banks	3,503,429	3,868,802	3,663,972	3,735,426
Due from other banks in Canada in daily exchanges	142,920	175 462	145,176	27,773,910
Due from other banks in foreign countries	16,045,600	15,380,510	18,230,126	5,418,787
Due from other banks in Great Britain	9,881,792	10,141,919	10,126,734	2,830,276
Dominion Government debentures or stock	3,176,153	2 787,540	2,789,529	20,361,370
Public municipal and railway securities	21,164,469	21,251,943	21,478,325	17,104,427
Call loans on bonds and stocks	13,577,151	13,948,206	14,216,843	527,559
Current loans and discounts	209,959,682	214,159,871	212,906,674	202,090,122
Loans to Dominion and Provincial Governments	466,274	546,120	589,746	127,009
Overdue debts	3,756,236	3,871,688	3,979,866	4,334,856
Real estate	2,004 715	2,055,120	2,086,233	1,229 819
Mortgages on real estate sold	565 056	539,768	459,285	579,475
Bank premises	5,631,046	5,645,017	5,651,437	5,659,868
Other assets	2,264.202	2,501,861	2,096,719	2,070.413
Total assets	$324,261,175	$329,512,330	$333,077,531	$326,226,143

Average amount of specie held during the month	$ 8,242,175	$ 8,315,777	$ 8,338,094	$ 7,432,092
Average Dominion notes held during the month	15,284,612	14,585,407	14,476.108	15,957,927
Loans to directors or their firms	7,210,154	8,159,958	8,019,857	8,401,123
Greatest amount of notes in circulation during month	33,268,021	36,295,483	37,236,492	36,197,769

MONTHLY TOTALS OF BANK CLEARINGS at the cities of Montreal, Toronto, Halifax, Hamilton Winnipeg and St. John

(000 omitted)

	MONTREAL		*TORONTO		HALIFAX		HAMILTON		WINNIPEG		ST. JOHN
	1894-5	1895-6	1894-5	1895-6	1894-5	1895-6	1894-5	1895-6	1894-5	1895-6	1896
	$	$	$	$	$	$	$	$	$	$	$
December	47,351	54,138	25,700	33,728	4,874	5,462	2,834	3,224	5,199	6,641	
January ..	48,376	46,663	27,961	33,095	4,997	5,705	2,831	3,227	4,067	4,977	
February	37,793	38,123	20,493	28,544	4,118	4,709	2,461	2,686	2,721	4,052	
March ...	42,464	36,643	22,332	26,087	4,174	4,357	2,462	2,516	2,929	4,286	
April	41,905	37,589	21,960	26,111	4,413	4,790	2,610	2,729	3,093	4,032	
May	51,969	44,324	25,698	27,796	4,964	5,064	2,704	2,733	4,156	4,246	2,413
June	52,353	43,129	26,772	28,384	5,090	4,550	2,913	2,775	3,865	4,094	2,418
July.....	51,902	44,796	26,838	30,394	5,739	5,467	2,972	2,847	4,038	4,961	2,879
August ..	49,314	41,574	23,235	25,128	6,264	5,556	2,726	2,367	3,937	4,646	2,602
September	45,251	44,763	22,543	24,870	4,694	5,036	2,706	2,829	4,008	4,630	2,283
October ..	53,298	48,999	28,437	29,242	5,613	5,387	3,402	3,131	7,911	7,585	2,292
November	54,397	50,215	28,633	29,129	5,444	5,063	3,363	2,856	8,503	8,895	2,362
	576,373	530,956	300,602	342,508	60,384	61,146	33,984	33,920	54,426	63,045	17,249

*NOTE.—These totals prior to November, 1895, do not include the Bank of Toronto.