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### Banking and Bills of Exchange

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Part I consists mainly of cases dealing with procedural devices for raising questions of law—demurrers, motions in arrest of judgment, motions for new trial, etc. This part has been designated "The Appellate Record." Motions to direct verdicts have received special treatment, but ordinary instructions to juries have been given scant notice. It would seem that this very important procedure should be treated separately along with the other methods of raising questions of law.

Part II deals with the declaration or complaint in the various forms of common-law actions; Part III, with parties; and Part IV, with pleadings in the action,—pleas and replications. Part V has to do with the enforcement of judgments.

Separate chapters deal with joinder of plaintiffs and defendants, but there is no special treatment of joinder of causes. Joinder of parties and causes should be treated together where practicable.

The book contains many interesting historical notes, and a number of very useful forms. A complete appellate record is given in the appendix.

The reviewer doubts that this re-arrangement of material will solve the difficult problem of teaching first-year procedure. It is confessedly experimental and the result of the experiment will be watched with interest.

W. W. B.

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BANKING AND BILLS OF EXCHANGE. By John Delatre Falconbridge, K.C., Dean of the Osgoode Hall Law School, Toronto. Fourth edition. Toronto: Canada Law Book Company, Limited. 1928. Pp. lxi, 980.

The eminent Dean of Osgoode Hall in his delightful preface to this edition wittily observes that if the present book has not reached a state of maturity, it has at least attained the age of majority. The first edition was published in 1907. The second and third editions appeared in 1913 and 1924 respectively, following the usual decennial revision of the Bank Act in 1913 and 1923. The occasion for the present edition is the issue of the Revised Statutes of Canada, 1927, chapters of which contain the Bank Act and the Bills of Exchange Act. This revision resulted in some changes of section-numbers in the Bank Act and minor changes in the headings of some groups of sections in the Bills of Exchange Act. It has thus been the settled policy of the author to render his work of maximum value to bench and bar by keeping it as nearly as possible up-to-date.

No alterations of moment in the general structure or arrangement of the book have been made by the fourth edition. Following the preface and table of contents appears a list of authors cited in the book, a list of abbreviations of Canadian and certain American reports and legal publications, and a complete table of cases. An adequate index is provided in the back of the book. The text is divided into three parts. First, there is an introductory chapter dealing with the influence of usage and the reception of the law merchant and the common law of England throughout Canada and of the French law in Quebec. Much interesting information is given relative to peculiarities of Quebec law and procedure. Then follows Book I containing twenty-eight chapters devoted to Banking and the Bank Act. Book II containing twenty-seven chapters deals with the law of negotiable instruments and the Bills of Exchange Act.

The author's method of treatment is simple. He begins Book I with a few introductory remarks regarding the scope of the Bank Act and the extent of the exclusive legislative authority of the Parliament of Canada in this field under the British North America Act. He then passes to a consideration of the text of the Bank Act, which is printed in large type section by section. After each section appears a statement, often quite detailed, of its legislative history and its purpose. The author then discusses the important cases construing the section or dealing with various problems which have arisen in connection therewith. Numerous footnotes contain extensive citations to English and Canadian cases, books and articles. A chapter is devoted to schedules of the Bank Act, another to clearing houses, which chapter also contains the rules of the Canadian Bankers' Association respecting clearing houses as approved by the Treasury Board, and two others deal with currency and legal tender in Canada and with dominion notes.

A very similar method is followed in Book II in the analysis of the Bills of Exchange Act. The usefulness of this part of the book is enhanced by the fact that the author has taken pains to point out the differences between the Canadian Act on the one hand the British Act and the American Negotiable Instruments Law on the other. He also indicates the points wherein the Act has departed from the rules of the law merchant. Since there is a certain amount of overlapping between some sections, particularly in the Bank Act, this method inevitably leads to a certain amount of repetition in the author's learned discussions. Such repetition is justified, however, in a book written primarily as a reference work for practitioners, since it is convenient to be able to find under any given section a full discussion of the problems raised by that section or else a cross-reference to the place in the book where such discussion may be found.

Assuming this to be the chief purpose of the book, it must be conceded that Dean Falconbridge has done his work well. He has provided a clear and reasonably concise restatement of the Canadian law on banking and negotiable instruments as contained in the statutes and cases. To attorneys, whether Canadian or American, who have occasion to work in these fields this book no doubt has been and will continue to be of great practical value. It is not meant to infer that the author has done no more than to state the law as he finds it to exist. On the contrary he has been quick to detect and point out ambiguities, contradictions and other defects in the statutes. Amendments are suggested, for instance, to more than twenty-five sections of the Bills of Exchange Act. Moreover, the book contains many acute observations as to the wisdom of various sections in the light of their practical operation. Our point is that these criticisms are largely incidental to a statement of the law as it is. The reader, while fully appreciating the many merits of this book, is quite apt to feel that the great industry and fine scholarship which it manifests, if directed to a constructively critical and creative study of the law of negotiable instruments, might have produced a work of more permanent significance and value.

The most important new feature introduced by the present edition is a chapter devoted to the conflict of laws aspects of bills and notes. This chapter contains a convincing argument for the proposition that the conflict of laws section in the Bills of Exchange Act, despite the good intentions of their

draftsmen, have merely served to introduced new uncertainties, complications and diversities into a field already overburdened with them. He wisely suggests that the only feasible remedy lies in the preparation of a model statute to be enacted concurrently in Great Britain and throughout the dominions. He expresses the hope that the work of the American Law Institute in the field of the conflict of laws may indicate principles upon which such a statute may be based.

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