

Banking and Bills of Exchange (Book Review)

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Act and the case law of sales. The chapters on conditional sales and on sale on approval, sale or return, etc., and on the Bulk Sales Act, are both interesting and well done.

In conclusion, the fact that the New York authorities are, while not stressed, ample, and carefully selected, makes this work of supreme value for the purposes for which it was intended. At the same time, it deals with general law and is of value to the lawyer as well as to the student without regard to the jurisdictional location of the reader.

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BANKING AND BILLS OF EXCHANGE. By John D. Falconbridge. Toronto: Canada Law Book Company, 1928, pp. 980.

While this volume is essentially an annotated edition of the Canadian Bank and Bills of Exchange Acts, it differs from the usual works of this type in that the annotations are singularly thorough and intelligent and supplemented by useful comment. It is likewise valuable because of the recognition that the law of banking and the law of negotiable instruments are so closely allied as to make a discussion of one without the other abortive and unusual.

The limitations of the volume are found in even the best works of this type and are especially serious when an exposition of the law of banking is attempted. At present the chief problems in that field are in certain aspects of the relations between the bank and its depositors and other outside parties. The solution to these problems is not as a rule to be found in the statutes which concern themselves primarily with other aspects of the law of banking such as organization, power of stockholders, dissolution, insolvency, etc. This is recognized by the author:

"The banking legislation of the Dominion leaves untouched in many respects the great body of the law merchant. The efforts of parliament have been mainly directed to the perfecting of the banking system as regards the existence of the banks as corporations with special powers and privileges, and the security afforded by them to the public. The general relation of banker and customer and the rights and liabilities arising therefrom are only incidentally affected."

However, he goes on to say:

"Nevertheless the general banking law is so far affected by the Bank Act that it seems impracticable to treat the general subject of banking law in any order other than that followed by the act."

Why this should be the case, is not clear. The method of treatment results in the over-emphasis of less important parts of the law of banking to the detriment of the more immediate and pressing problems. While the author has attempted to meet this problem by devoting a large amount of space to those sections where problems of this type can profitably be discussed (see Chapters

XII to XVIII), it is only approximately one-third of that devoted to the law of banking. A more serious objection is that in the attempt to tie up the discussion with the sections of the Bank Act, dealing generally with the powers of banks, the resulting arrangement of the material is rather arbitrary and unsatisfactory. In addition many important topics are neglected, *e. g.*, the duties and rights of the bank in relation to transmission of funds, commercial letters of credit, third party deposits. These are either inadequately treated or omitted altogether. It is interesting to note that the author recognized the inherent limitation of this type of work as far back as the first edition in 1907, when he stated in his preface:

"In connection with the Bank Act, I have not neglected to discuss the general relation of banker and customer and the body of law merchant which governs that relation, but the limits of time and space have restricted my discussion of them to a moderate length. The act affects such relation to a comparatively small extent, and the standard English text books contain an exposition of the law more in detail than it has been possible to include in a book of the somewhat wide language of this one."

Unfortunately, though there are many formal treatises on the law of banking, the reviewer knows of no work that achieves more satisfactory results than does this volume, despite the fact that many of the commentators have not burdened themselves with the limitations that Dean Falconbridge has placed upon himself. The modern text on the law of banks and banking still remains to be written.

The second half of the volume deals with the law of negotiable instruments and the Canadian Bills of Exchange Act. Since the problems arising in connection with bills and notes are to a larger extent covered by statute, the method of expounding the law by annotation is *pro tanto* more satisfactory, particularly as the quality and quantity of the annotations in the second part of the volume are in keeping with those of the first. For American lawyers a very useful part of the annotations is the constant comparison with the Negotiable Instruments Law. In view of the present discussion regarding amendments to it, an examination of the differences between the two statutes indicated by the author and his comments thereon would be both timely and useful.

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LITIGATION OF HUSBAND AND WIFE. By Charles M. Jacobs. Philadelphia: Dorrance and Company, 1928, pp. 565.

This scholarly work by a member of the Massachusetts Bar is very comprehensive in its scope, including every possible form of litigation that could arise between husband and wife. The book does not, as its title might indicate, limit itself to an exposition of the technical procedural aspect of suits between husband and wife, but is rather a complete digest of the Law of