

**BANKERS' ADVANCES ON  
MERCANTILE SECURITIES: OTHER  
THAN BILLS OF EXCHANGE AND  
PROMISSORY NOTES**

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Bankers' Advances on Mercantile Securities: Other than Bills of Exchange and Promissory  
Notes by Arthur Reginald Butterworth

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**ARTHUR REGINALD BUTTERWORTH**

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 PROMISSORY NOTES.

BY

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## PREFACE.

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The present work is founded on a course of lectures delivered at the request of the Council before the Institute of Bankers in November and December, 1901. The course was limited to four lectures, each of which was delivered before the members of the Institute in London and also at Newcastle-on-Tyne, and published in the Journal of the Institute early in the present year.

It was originally intended to deal with the whole subject in four lectures, but it soon became evident that this could not be done. At the end of the earlier lectures various questions were asked by members of the Institute, many of the questions relating to matters of great practical importance to bankers, and a good deal of time was occupied in answering them. This method of putting questions by those who have a practical acquaintance with the difficulties that arise possesses several advantages. It enables the lecturer to explain points which he may have left somewhat obscure, and to enlarge on those which he may have treated in too summary a manner. It also increases the interest of the listener to realise that the legal principles discussed are not altogether "in the air," and that if he is in doubt as to what principle governs some particular transaction within his own experience, the lecturer will at least make an attempt to solve his difficulty ; and it is in applying legal principles, not in ascertaining them, that difficulties mainly arise.

On the other hand, this method necessarily takes the lecturer, whose time is limited, away from the course which he had mapped out for himself.

The result in the present instance was that very little time was left to deal with the important class of advances made on the ordinary Stock Exchange securities—scrip, share and stock certificates, and bonds—and in preparing this work for the press, some references to such advances have been taken from the fourth lecture as delivered, and the whole subject more fully treated in two additional lectures. This and other additions have nearly doubled the size of the work, which the author ventures to think contains information not hitherto collected in a single volume. He has endeavoured to elucidate certain points of very considerable difficulty upon which insufficient light seems to be thrown by the recognized text books—such as the important consequences of the distinction between delivery orders and warrants generally and in relation to bankruptcy; of that between estoppel and a cause of action; and the effect of certain decisions of the House of Lords relating to bankers' advances to stockbrokers and money dealers. It is hoped that by thus rendering the work more complete it will be found useful to all who are interested in advances made on mercantile securities other than bills of exchange and promissory notes—especially to bankers and stockbrokers, as well as to lawyers.

The author does not so far flatter himself as to suppose that he has altogether escaped falling into error, but he has spared no pains in his endeavour to make his statements accurate. In treating of legal matters, it is impossible to avoid the use of technical terms, but as he was primarily addressing an audience of laymen, he endeavoured to make his meaning clear by explaining those terms whenever it seemed to be desirable. He has made no attempt to collect a large number of authorities,

but has cited cases only to support or illustrate his propositions. Although the number of those referred to may, to the lay reader who regards footnotes as an eyesore, seem unnecessarily large and even useless, he may perhaps bear with them more patiently if he realises that to a lawyer a statement of law (unless of the most elementary description) made without reference to the authority supporting it is of no practical use, for it affords him no means of checking its accuracy. The practice of citing authorities for each proposition, although unfortunately it affords no guarantee for accuracy, undoubtedly tends to accuracy ; and accuracy of statement on matters of law is quite as important to the layman as to the lawyer. A simple treatise on a legal subject free from all disfiguring citations is apt to be as misleading to the one as it is useless to the other.

In the third Lecture, the case of *Farquharson v. King* was referred to (at page 55) as an illustration of estoppel operating against the owners of goods who had by their conduct enabled another to hold himself out as entitled to dispose of them. But after that Lecture had gone to press, the House of Lords reversed the decision of the Court of Appeal (as mentioned in a note at the foot of page 153), and held that there was no estoppel in that case.

The author desires to express his indebtedness to his learned friend, Mr. Walter C. A. Ker, the joint-author of the admirable and well-known Commentary on the Sale of Goods Act, for the great assistance kindly rendered in discussing various points of difficulty arising in this work.

A. R. B.

7, Fig Tree Court,  
The Temple.  
1st November, 1902.



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