THE BILLS OF EXCHANGE ACT, 1882 (45 & 46 VICT., C. 61): AN ACT TO CODIFY THE LAW RELATING TO BILLS OF EXCHANGE, CHEQUES, AND PROMISSORY NOTES

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BILLS OF EXCHANGE ACT, 1882.

(45 & 46 VICT., C. 61.)

An Act

TO CODIFY THE LAW RELATING TO BILLS OF EXCHANGE, CHEQUES, AND PROMISSORY NOTES.

With Explanatory Notes and Index

BY

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INTRODUCTION.

The Bills of Exchange Act, 1882, which codifies the law relating to Bills of Exchange, Cheques, and Promissory Notes, was passed on the 18th of August, and came into immediate operation.

Under these circumstances, a handy edition of the Act, with an index and short explanatory notes of a non-technical character may perhaps be acceptable to merchants, bankers and others who will frequently have to consult the provisions of the Act in the hurry of business. I hope later on to publish a legal treatise on the Act, dealing more completely with the whole law on the subject of negotiable instruments, and comparing the Act with the foreign codes.

The Act applies to the whole of the United Kingdom, and subject to a single exception, enacts one and the same body of law for England, Ireland, and Scotland. The exception is contained in s. 53, which preserves, as regards Scotland, the Scotch rule as to the operation of a bill as an assignment of funds. The Scotch attach great importance to this rule, but the English merchants and bankers were not prepared to accept it for England, although its adoption was recommended by the Royal Commission of 1855.

Besides assimilating the law relating to bills, notes, and cheques for the three branches of the United Kingdom, the Act is of some importance in another respect. It marks a new departure in English legislation. It so happens that it is the first piece of codification that has found its way on to the statute book. Several attempts have been made to get codifying Bills through Parliament, but hitherto they have been unsuccessful. The measure therefore must be regarded as an experimental one—if it should work well, and prove useful to the mercantile community, the precedent set by it will doubtless again be followed, and other branches of the law will in their turn be codified.

The history of the Act is as follows. The Bills of Exchange Bill, 1881, was drafted by me last year under instructions from the Institute of Bankers, who I believe acted in the matter in conjunction with the Associated Chambers of Commerce. The object of the Bill was to reproduce, as exactly as possible, the existing law on the subject in a codified form, leaving to a later stage any amendments that might seem desirable and feasible. The Bill was introduced into the House of Commons by Sir JOHN LUBBOCK (the President of the Institute), and, after having been read a second time, was not further proceeded with that Session. During the recess criticisms on the measure were invited from various quarters, and many very valuable suggestions were received. This year the Bill was again introduced without alteration, and then referred to a strong Select Committee of 19 members. Sir FARRER HERSCHELL was elected chairman, and the committee included, among others, Sir J. LUBBOCK, Mr. C. BARING, Mr. R. B. MARTIN, Mr. FRY, Mr. COHEN, Q.C., Mr. WHITLEY, Mr. GIBSON, the Solicitor-General for Scotland (Mr. ASHER) and Mr. WILLIAMSON. The Bill as originally drafted applied only to England and Ireland, but the Committee were empowered to extend it to Scotland. It seemed ridiculous that in the case of an instrument so migratory as a bill or note the rights of the parties to it should vary according as it was made on the right or the left bank of the Tweed. It was found that English and Scotch law for the most part differed only on minor points of detail, and the measure was extended to Scotland.

The Bill was introduced in the House of Lords by Lord BRAMWELL, and again referred to a Select Committee, which consisted of the Law Lords, with the addition of Lords WOLVERTON and BALFOUR OF BURLEIGH. Lord BRAMWELL presided over the Committee, and Lord FITZGERALD took charge of the measure in its later stages.

The scheme of the Act is this :—first, Bills of Exchange are dealt with by themselves ; then, the provisions peculiar to cheques are inserted, and it is provided that subject to those provisions, the provisions applicable to a bill on demand shall apply to cheques. A similar course is then pursued with reference to promissory notes.

The main provisions in which the Act either consciously alters the law, or affirms rules not always recognized in practice, are, it is believed, the following, namely:—Sect. 4 (2). Sect. 7 (2). Sect. 8 (1) and (3). Sect. 12. Sect 14 (1). Sect. 15. Sect. 18 (3). Sect. 33. Sect. 36 (3). Sect. 39 (4). Sect. 41 (2). Sect. 44 (2). Sect. 49 (6). Sect. 51 (2). Sect. 61. Sect. 62. Sect. 64. Sect. 73. Sect. 74. Sects. 91–95. Sect. 100.

It is to be noted that the Act expressly saves and preserves the Bankruptcy and Stamp Laws and the laws relating to Joint Stock Companies and the privileges of the Bank of England and the Bank of Ireland. Questions relating to bills and notes which are not specifically dealt with by the Act are still to be governed by the common law, which includes the law merchant, that is to say the usages of trade as recognized and enforced by the courts.

The main material provisions of the Stamp Act, 1870, have been added in the Appendix.

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11, New Court, Lincoln's Inn.
22nd August, 1882.

Bills of Exchange Act, 1882.

45 and 46 Victoria, chap. 61.

ARRANGEMENT OF SECTIONS.

PART I.

PRELIMINARY.

PART II.

BILLS OF EXCHANGE.

Form and Interpretation.

Section.