

Hall's Bank Laws; Containing the Banking Law of New York State and the National Bank ACT, Together with the Statutory Construction, General and Stock

Charles Roswell Hall

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This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1895. Excerpt: ... change, for the purpose of presentment and demand and notice of dishonor, and do not require a formal protest to charge the indorsers. Ib. 32. They are also due upon presentation and not entitled to days of grace. 16. 33. A check operates as an equitable assignment pro tanto from the time it is drawn and delivered, as between the drawer and the payee or holder. Hidings v. Hillings Lumber Company et al., 18 S. E. 620; 38 W. Va. 351. 34. A general assignment for the benefit of creditors does not defeat the check holder. Ib. Certification of checks. (See Collections.) 1. A national banking association may "certify" a check. Merchants' National Bank v. State National Bank, 10 Wall. 604. 2. The certification of a check by a bank is. in effect, merely an acceptance, and creates no trust in favor of the holder of the check and gives no lien on any particular portions of the assets of the bank. People v. St. Nicholas Bank, 28 N. Y. Supp. 407. 3. A bank by certifying a check guarantees signature, the fact of sufficient funds, and that those funds shall not be otherwise used to the prejudice of a bona fide holder: but not the body of the check. Clews v. Bank of N. Y. B'g. Ass'n, 89 N. Y. 418. 4. A certified check has a distinctive character as a species of commercial paper, the certification constituting a new contract between the holder and the certifying bank, and the bank becomes the debtor of the holder as for money had and received. National Commercial Bank v. Miller fc Co., 77 Ala. 168. 5. Where the defendant has a right of election, on account of a tort committed, either to sue for the tort, or, waiving the tort, to sue for money had and received, the relation of debtor and creditor does not exist until he elects to sue for the money; and his creditors can n...

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