factors acts, and proceeding on general principles, decided in favor of an innocent purchaser. And though in *Vickers* v. *Hertz*, in the House of Lords, the case was decided in favor of the defendant, as coming under the factors acts, Lord Colonsay expressly says that the judgment appealed from was well founded independently of those acts. Now, in the case before us, Denis Daly and Sons were allowed by the plaintiffs to appear as the ostensible owners of the flour, and to exercise uncontrolled dominion over it, without the plaintiffs, by intervening themselves in the transaction, as they might have done, securing themselves against any fraudulent conduct on the part of Denis Daly & Sons. It would therefore be in the highest degree unjust and inequitable that the defendants, Lawson & Co., who have innocently advanced money on the goods in the ordinary course of commercial dealing, should be sufferers through the improvident contract of the plaintiffs with Denis Daly & Sons, or want of proper caution on their part. We therefore on both grounds give judgment for the defendants.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

[CROWN SIDE.]

MONTREAL, April 22, 1879.

REGINA v. PAQUET.

Larceny as a clerk—Cashier—Larceny of money in legal tender notes—Property of Bank in shares held as collateral security.

Three indictments were presented against the defendant, who had been cashier of the Bank of Hochelaga. Motions having been made to quash the following judgment was rendered :—

RAMSAY, J. Indictment, No. 134; larceny, as a clerk. This is a motion to quash, founded on two reasons :—First, that as the indictment contains the word "cashier" in brackets after the word "clerk," it discloses the fact that the indictment should have been for a misdemeanor, under Sect. 82 of the Larceny Act, and not as a felony; second, that as the sum of money, said to be stolen, is described, also in brackets, as "legal tender notes," that the description of the money is not sufficiently precise. It seems to me it is a sufficient answer to these objections to say, that the words in brackets might be struck out as surplusage, and the indictment would remain good. But in addition to this, the Court cannot presume that a cashier is not a clerk. That is a question for the jury, under the guidance of the Court, when the evidence shall have established what the duties of the particular cashier were. Again, I am not prepared to adopt the view expressed by the learned counsel for the prisoner, that even those officers enumerated in Sect. 82 cannot commit the offence of larceny as a clerk, while acting in the named capacity. It may be one thing for a director "to take and apply fraudulently" and another for him to steal while acting in his capacity of director. But it is not necessary to decide this point now. With regard to the second point, Sect. 25 of the Crim. Pro. Act (32 and 33 Vic., chap. 29), meets the difficulty. It is not necessary to state the particular coin or note. The motion to quash is therefore rejected.

No. 143. Taking and applying for his own use the property of a body corporate. The indictment charges the accused with having taken and applied certain property of the Hochelaga Bank, to wit:—"75 shares of the stock of the Montreal Telegraph Company." Now, it is urged firstly, that the Hochelaga Bank could not hold such shares as its property. The question is not without difficulty, but it appears to me that it may be satisfactorily solved by a careful reading of two clauses of our Banking Act of 1871. By section 40, every bank may deal in gold and silver bullion, bills of exchange, discounting of promissory notes and negotiable securities, and in such trade generally as appertains to the business of banking. Now it is certainly part of the business of banking to lend on the deposit of shares as security; and so it was held in the Bank of India's case (L. R., 4 Ch., p. 252) by the Lords Justices of Appeal. Giffard, L. J., said:—"There was a *bona fide* loan upon the deposit of shares. That unquestionably is a transaction within the scope and objects of the company, being one within the scope of every ordinary banking business," and in the same case it was held that the bank could become liable as owner of these shares as a contributory. Perhaps our law is