

taken previous to the 30th of June. Recollect the discovery was made in September of last year; his entry was made on January 21st; the report was made on the 11th of July—you have to ask yourselves in the face of that evidence whether you can say that that money had been taken and circulated previous to the making of the return or not.

If you are of opinion, gentlemen, that in the first place that money had disappeared, that it was in circulation, then you will have to arrive at the conclusion that the report with respect to that item of circulation was false and deceptive, that instead of representing the liability as \$261,000, it should have represented it as being \$173,000 in excess of that amount.

Now, was that amount in the hands of the public or not. It is ascertained to have disappeared in September—a note of it is made in January. Later on, it is admitted by Mr. Weir that the amount had gone out—disappeared. Was it or not in the hands of the public? Well, in August last, the amount in the hands of the public amounted to \$504,000, not to \$261,000 but to double that amount—very nearly double that amount. Consequently, you have to ask yourselves whether that is not proved, that it was issued before the 30th of June; but, we have other proof as to that, that it had disappeared before that, but it is proved at any rate that a larger amount was in the hands of the public than is represented by that return.

The bank closed its doors on the 19th of July, and it suspended—at last, it finally suspended, and went into liquidation on the 25th of July, which left only 19 days between the date of the last report, and the date when the bank ceased to do any business, yet, still, when the liquidators proceed to call in the notes which were in the hands of other banks, and of the public, instead of the sum slightly exceeding \$261,000 being returned, over \$500,000 were presented for redemption.

The next item is the one of \$10,000, which was placed to the credit of profit and loss, and which was afterward carried as a reserve fund to the reserve fund account, and how was that done? After detailing the facts, the Judge said: "They had no justification in doing that."

I now take the assets of the bank; that is to say, the property of the bank, whether it consisted in personal notes or real estate, and the first item I will take under consideration is number four of the report, "Notes and cheques of other banks." In the return that was given at \$172,678, but in that amount was included an amount of \$5,415.80, composed of what the witnesses described as rubbish and trash; that is to say, there was a cheque on a defunct bank, the Exchange Bank; there were bonds; there were accounts; all kinds of little bonds and accounts that had been paid, and all those were classified under the heading I have just mentioned as being notes and cheques on other banks. Amongst other things there were two notes on a bank which had ceased to be in existence in Manitoba, and it was proved, more over, by the witness that those two notes were forgeries, and consequently they could not be entered as assets. Well, that amount was added as forming part of notes and cheques of other banks. The amount should be \$155,534 instead of \$172,675.

The next item is item II, "Canadian Municipal Securities," which is put down at \$82,027, whereas that amount should not have been classified there.

The next item is "Canadian, British and other railroad securities." The Judge condemned the classification of this item.

Next, we come to call loans: "Call loans on banks and stocks." That is put down as \$38,665, but in that amount we find added, in the first place, the Duluth stock, on which no loan had been made, and

which should have been properly placed under item 12, being an enumeration of British, Canadian and other railway securities.

The Judge here detailed a number of items as included in call loans, which were overdue debts, losses on stocks, etc.

The next item is the item of current loans. That item is given in the statement as amounting to \$1,372,485, whereas it should only be \$1,117,210. The difference is accounted for in the following manner: Amongst the current loans was included an amount of \$35,126 over-drafts on accounts—over-payments; that is to say, depositors had presented cheques to the bank for an amount of \$35,000 more than they had money on deposit to meet their cheques. The bank had allowed them to overdraw their accounts to that amount, and that is included amongst current loans.

Then, in the next place, we find an amount included therein of \$302,314.33. That amount consisted in notes signed by Mr. Weir under the assumption that he was the attorney for the presumed makers of the notes. It is an amount of \$300,000 which Mr. Weir professed to be authorized to sign the name of the assumed makers of those notes. It has been established before you that with the exception of the notes which he signed on behalf of his son, Frank Weir, to an amount of \$33,828.76, that not one of the persons whose names were used in connection with the other notes had ever authorized him to sign them. Among those notes we find one signed by a man who has been dead for some years. He could not be the attorney of that man—that is certain. The greater part—almost all the rest of the notes, are notes which were signed on behalf of bankrupt estates—some of them had been wound up, and in other cases there was no hopes of the bank ever recovering anything. In a few cases, however, which I will enumerate to you in a moment, there was a probability that the bank might recover something.

Now, these notes certainly cannot be called as current notes. A current note is a note which has a legal existence, and with the exception of the notes which were signed on behalf of Frank Weir, all the other notes had no legal existence, and were signed in the names of parties who had given Mr. Weir no authority whatever to sign them.

They represented nothing — they were worthless — there was no authority to sign them — they were like a piece of blank paper, always excepting with regard to the notes signed by Frank Weir, because a power of attorney was produced establishing the fact that Mr. Weir had the right to sign his son's name, consequently we have to take off \$33,828, and that amount has to be taken from the credit of current notes.

The Judge then showed that the overdue debts had been misrepresented.

The last item of all is that of other assets. Well, now, that is represented to be \$284,000, but in that are included the following items: \$223,445 stock held by the bank itself. Well, I leave it to you to say whether the asset is a very good one or not. The next is \$11,824, which consisted of claims for stock issued in the agencies, which had never been recovered, and never paid for, and for which notes had not been given, or notes in many cases, and which was repudiated, by those in whose names it was placed in many cases. The next item is an item of \$13,350, for organizing branches. That is not an asset. You cannot sell that. Now that the bank is liquidating, what are they going to get for that?

Well, the consequence is that there are entries of items as assets, each of which is also a fictitious one, a deceptive and false one.

The statement sent in — I take their own figures — the statement sent in, represents the assets that is the property of the bank; the notes they held, the cash they had on hand; it represents their assets as being \$2,267,516.89. Now they give in that same return their liabilities as being \$1,776,841.11.

The report, if it had been a correct statement of the position of the bank, would have given the bank a surplus after paying their capital of \$21,045, and that is what they claim themselves by figures written in the bank, on the draft of the report which was sent to the government.

When all proper deductions are made, the bank had a deficit of \$815,899.

I will now, gentlemen, leave the case in your hands, convinced from the attention that you have paid that whatever verdict you render will be one rendered according to the dictates of your conscience, and that it will be a verdict not founded either on prejudice or the one hand, or on sympathy on the other, but that you will put away from you all sympathy, all prejudice; and simply look at the case with the cold eyes of the law, and of what is required in order that justice should be rendered; justice either to the defendant if you think that he is not guilty; justice to society on the other hand, if you think he is guilty.

THE PRISONER'S STATEMENT.

Your Honour,—My case has been so ably defended by my counsel so far as the evidence is concerned, that it would be but a waste of time for me to add to what has already been said. But there are circumstances attending the case which have not been within the scope of evidence.

I am now in my seventy-seventh year, and for the past three years have felt my bodily and mental strength failing. During the nine months preceding the suspension I was prostrated by severe illness, which incapacitated me from maintaining the close supervision which I otherwise would have given. Dr. Roddick knows and testified to my illness and condition. I have to blame myself for having endeavored to continue to perform duties which I was no longer able properly to perform.

I also reproach myself, looking at the results, for permitting so much of the note circulation of the bank to remain out of my control.

The disappearance of so much of the note circulation, which led to the suspension of the bank, is still a mystery to me, and I feel that it can be solved only by the testimony of the missing teller.

The only other item to which I would refer is that of current loans. The bank having made advances on various properties to secure itself from loss, I treated these as current loans. I may have been wrong in so doing, but I did so in the interest of the bank and in good faith.

I have to thank the jury for the recommendation to mercy which accompanied their verdict, and Your Honor for the very kind sympathy which you displayed when that recommendation was submitted to you. I feel it unnecessary to refer to my weight of years in view of such expressions. I deeply deplore the losses which have been incurred through the failure of the bank, and am prepared to submit myself to the verdict which Your Honor may inflict, reminding Your Honor only of this fact, that when the suspension of the bank took place I, as well as the other directors, instead of availing ourselves of the ninety days' grace, called in an outsider, stepped out of all authority, handed over the keys and documents of the bank, and I have since done what little I could do to assist in conserving the assets for the benefit of the creditors.

THE SENTENCE.

Mr. Justice Wurtelle spoke as follows: "Prisoner, the offence of which you are
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