

in by a customer after banking hours, and is put in a separate place by itself, and not entered in the regular books of the Bank, and the Bank fails, and does not open on the next day, the necessity of failing having been already agreed upon by all the partners, the customer may reclaim his deposit and hold it as against the assignee of the bankrupt. (1) Though in another case, wherein it was shown that the bankers were in the habit of receiving, and the customer was in the habit of making, deposits after banking hours, and that such deposits were always regarded and treated by both parties as if regularly made during banking hours, and the bankers had not determined upon the necessity of failing when the deposit was made, a contrary decision was reached. (2)

(TO BE CONTINUED.)

SUPERIOR COURT JUDGMENTS. (3)

LIABILITY OF BANK DIRECTORS.

MACDONALD *v.* RANKIN.—Plaintiff is holder of 1115 shares of the old Consolidated Bank of Canada, the par value of which is \$111,500. Defendant was one of the directors of the bank at the time of the failure. The bank was formed in 1876, and was the result of a combination of the City Bank of Montreal and the Royal Canadian Bank of Toronto. The Consolidated Bank carried on business for three years, and went into liquidation in August, 1879, and up to within a few months of the failure paid dividends in the regular way of six to seven per cent. yearly. When the bank was liquidated it turned out that out of a capital of \$3,477,224 and a reserve of \$247,650.17, making in all a total of \$3,724,874.17, everything had disappeared except \$460,000. Of course this disappearance had taken place in the previous three years.

The present action is instituted against defendant Rankin for the recovery of \$150,000 for loss and damages suffered by plaintiff, owing to the defendant's neglect of his duties as a director of said

(1) *Threlfal v. Giles*, cited 2 M. & Rob. 492; *Sadler v. Belcher*, id. 489. See further, 12-Central Bk., 15 O. R. 611.

(2) *Ex parte Clutton*, 1 Foub. 167.

(3) This decision was rendered by Mr. Justice Pagnuelo 13th December, 1890, in the Superior Court at Montreal, and the case has been taken to appeal by the defendant, where it now rests. Within the past month a similar suit has been entered in the Superior Court against Hon. W. W. Ogilvie, a second director in the Consolidated Bank, following a suit against Mr. Robert Mackey *es qualitt*, previously entered and still pending.