

"are paid up and retired, the like number of shares, being  
 "£1,750 of the said capital stock. Commercial Bank of  
 "N. B., Saint John, 1st December, 1841. (Signed), G. C.  
 "Partelow, Cashier:" this being subsequent to the letter  
 of November 4, 1841, in which the first reference and  
 proposal as to the Bank stock appears. Mr. Sancton  
 says there was a paper in Bank with reference to the  
 transfer of the Bank stock, signed by Mr. Partelow;  
 he identifies this as the paper, and says he presumes it  
 was a copy of what Partelow gave Mr. Wilmot at the  
 time. It is the only record of the terms on which the  
 Bank stock was given and received, and it is not im-  
 peached by evidence on either side. The document itself  
 shows the origin of the note for £1,427 5s. 6d. As to the  
 £610 11s. 3d. note, Mr. Sancton, when under examination,  
 after looking at notes marked A 16 and A, and at the  
 discount book, says, "I believe those two promissory notes  
 "are the same notes referred to in the paper and memoran-  
 "dum written and signed by Mr. Partelow, and marked  
 D 1;" he is then asked, Were the three notes mentioned in  
 the mortgage C, made by John M. Wilmot for £213, £219,  
 and £226 respectively, renewals of the £610 11s. 3d. note  
 mentioned in the memorandum or paper marked D 1; to  
 which he replies, "Looking at the papers and books, I be-  
 "lieve that the note for £610 11s. 3d., marked A 16, was  
 "included in the security marked C, and was represented  
 "by the three notes mentioned in that mortgage as made by  
 "J. M. Wilmot in favor of R. D. Wilmot." And on re-ex-  
 amination by Mr. Jack, he traces back the note of £610  
 11s. 3d. to the note of £604 8s. 2d., as follows, "The entry  
 "I referred to with reference to the note for £610 11s. 3d.,  
 "is in folio 498 of journal or cash book No. 7. The entry  
 "is a note of John M. Wilmot in favor of R. D. Wilmot,  
 "on demand for £604 8s. 2d., with interest from date,  
 "dated about 16th October, 1841. I think that would be  
 "about the date, according to the calculation of interest:  
 "that £604 8s. 2d. note appears to have been renewed by  
 "the note J. M. Wilmot in favor of R. D. Wilmot, marked  
 "A 16." Thus we see most conclusively that both the  
 Bank stock and mortgage C, covered a portion of the same  
 indebtedness, viz., the £610 11s. 3d. note. Now clearly the  
 Bank were bound to appropriate the Bank stock and divi-  
 dends, when realized, to the discharge of the indebted-  
 ness for which they were held as security, so far as the