but such is the law and we have to take it as we find it and administer it as best we can. Its bearing on the case will appear in the sequel of these remarks. Now, let us ascertain whether this Act 34 Vic., cap. 5, with this and other provisions, applies to the Consolidated Bank of Canada. Section 9 of the Act of Incorporation of this "Consolidated Bank," 39 Vic., cap. 44, enacts that

"The Act of Parliament of Canada, passed in the thirty-fourth year of Her Majesty's reign, chapter five, intituled 'An Act relating to Banks and Banking, and all the provisions thereof and the amendments thereof shall apply to the 'Consolidated Bank of Canada,' in the same manner as if the same were expressly incorporated in this Act, except in so far as such provisions relate specially to banks in existence before the passing thereof, or to banks *en commandite*, or are inconsistent with this Act;" and it is then declared to be a public Act. Here we have an express clause of a public Act declaring that the Banking Act, 34 Vic., chap. 5, shall apply to the Consolidated Bank. The Court is bound to know this provision of the law, I am obliged to recognize and act upon it without allegation in legal proceedings and without proof other than that furnished by the law itself. What necessity for alleging the fact in the indictment? What object would be attained in a prosecution like the present, by inserting such an allegation therein? I have heard none—I know of none; in the opinion of the Court such an averment would be simply useless, and, therefore, this ground of demurrer must be overruled. We come now to the third reason for demurring to this indictment, and it is as follows: "Thirdly—Because each of the false statements alleged in the said return is, if false, as alleged, a misdemeanor of itself, and each such misdemeanor should be the subject of one count, whereas there are over six misdemeanors alleged in the sole count contained in the said indictment." This ground, I believe, was abandoned at the argument; but in any case this point was disposed of by the Court of Appeal in the Cotté case; the Court holding that the indictment, which was in form precisely the same as the one under consideration, did not charge the defendant with several offences or with one offence in different counts, but contains only one count, charging the defendant with only one offence—that is, of having unlawfully and wilfully made a certain wilfully false and deceptive statement in a return respecting the affairs of the Bank, which statement, it is averred, was false in several particulars, the whole forming but one offence, as the several particulars in which the statement was false and deceptive were included in the same return, and formed but one and the same transaction. This pretension, therefore, cannot be sustained. The 4th and 5th reasons are as follows, viz.:—"Fourthly—Because it is not therein alleged that the return, which is said to contain false statements, was a return to the Government of the Dominion of Canada." "Fifthly,—Because it is not therein alleged that the said return was ever published or made known to the public. The law does not distinguish between returns imposed as obligatory by the Act and other returns, and where the law does not the Court will not—cannot distinguish. Besides, these points were disposed of by the Court of Appeals in the Cotté case, and in that judgment I concurred. The wording of that indictment, as before remarked, was the very same as in these, and it was held that these allegations were not necessary. The offence consists in the making any wilfully false or deceptive statement in any account, return, report or other document respecting the affairs of the bank. The indictment is in the very terms of the statute, and no more is required in this instance. Besides, the return must be wilfully false and deceptive. The nature of that return will speak for itself when produced and legally proved. Till then, and owing to the comprehensive language of the statute, the Court is of opinion that these averments were not necessary, and consequently that the omission of them is not fatal. The 6th reason, that it is not alleged in the indictment that the defendants were directors and officers of a bank to which the Banking Acts of the Dominion of Canada apply, has already been considered and disposed of. The necessity of negative averments in the indictment was also mentioned in the argument. The counsel were aware of the holding of the Court of Appeals as to such allegations in the case so often referred to above. The authorities cited by Mr. Kerr, from Archbold and Paley, in my opinion, do not apply to the case under consideration, and the inconvenience and even inexpediency, in view of an effective administration of justice in cases like the present of attempting to point out, before the adduction of evidence, in what particulars such statements are false and deceptive must be obvious to every one familiar with the incidents of this kind of prosecution. The statutes I have quoted and referred to are public Acts. They are precise, formal and peremptory in their provisions, and I am of opinion that the jurisprudence of this Court fully justifies the application of them which the Court feels called upon to make in these cases. The motions and demurrers are consequently dismissed.

Ritchie, Q.C., for the private prosecutor.

Kerr, Q.C., Wurtele, Q.C., Wotherspoon, and *Macmaster* for the defence.