

one being in existence at the time of the Banking Act, and the other incorporated by a statute subsequent to that Act. If I clearly understand the objection, it amounts to this: The Consolidated Bank of Canada not being in existence when the Banking Act was passed, and, therefore, not being referred to in the schedule to that statute, its subsequent incorporation and the application of Dominion banking law to that institution should have been alleged in the indictment. At first sight, and upon a restricted view of the law, there is, no doubt, something plausible about this argument, but I confess myself, after careful consideration, unable to see how it can be successfully urged against the sufficiency of this indictment. Bearing in mind, therefore, the precise point raised by the defendants' counsel, viz: if the Consolidated Bank of Canada was in existence when the 34 Vic., cap. 5, was enacted, that Act does not apply to it, because not mentioned in the schedule, and as it was incorporated five years afterwards by the Act 39 Vic., cap. 44, this subsequent charter should have been alleged in the indictment, in order to show that it came under the operation of the Act 34 Vic., cap. 5. In order to mark the relation of these two statutes, the one to the other, it is necessary to refer to them a little more in detail. By the first clause of the Banking Act it is enacted in substance as follows:—The charters or acts of incorporation of the general banks enumerated in the schedule to that Act are continued, subject to the provisions of that Act until 1st July, 1891, and the provisions of that statute shall apply to each of them respectively, and their then present charters were repealed, except only as to the matters for which the said charters are as therein above continued until the day last aforesaid. In the Section 2 of that Act will be found the following words:

"The provisions of this Act shall apply to any bank to be hereafter incorporated (which expression in this Act includes any bank incorporated by any Act passed in the present session, or in any future session of the Parliament of Canada, whether this Act is specially mentioned in its act of incorporation or not, as well as to all banks whose charters are hereby continued, but not to any other, unless extended to it under the special provisions hereinafter made."

Section 13 of the same Act provides that—

"Monthly returns shall be made by the bank to the Government in the following form, and shall be made up within the first ten days of each month, and shall exhibit the condition of the bank on the last juridical day of the month preceding; and such monthly returns shall be signed by the president or vice-president, or the director (or, if the bank be *en commandite*, the principal partner) then acting as president, and by the manager, cashier, or other principal officer of the bank, at its chief seat of business."

Section 62 of the same Act, 34 Vic., cap. 8, enacts that—

"The making of any wilfully false or deceptive statement in any account, statement, return, report, or other document respecting the affairs of the Bank shall, unless it amounts to a higher offence, be a misdemeanor, and any and every president, vice-president, director, principal partner, *en commandite*, auditor, manager, cashier, or other officer of the bank preparing, signing, approving or concurring in such statement, return, report or document, or issuing the same with intent to deceive or mislead any party, shall be held to have wilfully made such false statement, and shall further be responsible for all damages sustained by such party in consequence thereof."

By the 13th clause the law imposes on the banks the duty of making monthly returns to the Government; and the 62nd clause speaks of any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the bank, and it further declares that any president, vice-president, director, auditor, manager, cashier, or other officer of the bank preparing, signing, approving or concurring in such statement, return, report or document, shall be held to have wilfully made such false statement. It must be admitted that this clause embraces a great number and variety of cases regarded as wilful and false in business transactions. It undoubtedly is extremely stringent and comprehensive, and is calculated in the highest degree to stimulate the activity and vigilance of every one connected with the management of these important institutions. It goes far beyond the monthly returns which Banks are obliged by the Act to make to the Government;