

The procedure provided for by the Audit Act has, however, an important bearing upon the main defence advanced by counsel for the defendants.

Martineau committed the first of his detected forgeries on 19th December, 1901, and the last on 17th October, 1902.

I am unable to find that there was negligence or carelessness on the part of any of the various bank officials who handled these cheques, except as to the cheque which Martineau says bore only the one false signature. . . . There was culpable carelessness on the part of the officers of the Bank of Montreal who passed the particular cheque now under consideration. . . . As to the cheque for \$3,819.04, the negligence of their own officers precludes defendants from setting up any subsequent default of their customer in bar of his claim.

During the months in which he committed his forgeries, Martineau's duties included the checking of the daily pass-book sheets. These sheets with the accompanying cheques . . . were handed over to Martineau to be checked. Martineau promptly abstracted and destroyed his forgeries, which thus came to his hands. At the end of each month the bank sent to the department a detailed statement shewing all the deposits made to the credit of the departmental account, and all withdrawals by cheques during the month. Martineau was intrusted with the comparison of this statement with the cheques received during the month, and, upon his report of its accuracy, a receipt for such cheques and an acknowledgment of the correctness of the balance as shewn by the statement was given to the bank. . . . Such receipts and acknowledgments are produced for the whole period covered by the Martineau forgeries, and the balances which they shew were, in each instance, reached by debiting the forged cheques to the departmental account. . . .

The right of the Crown to recover in this action is tacitly conceded, both by the defendants and third parties—subject to a question . . . as to the form of the relief sought—unless alleged omission or neglect by officers of the government of duties which the ordinary customer owes to his bank, has barred such right. . . .

I find nothing of negligence or carelessness on the part of the Crown officers in the circumstances preceding the forgeries which conduced to their commission. . . .

But, were the present plaintiff other than His Majesty, I should not, in respect of the 11 forged cheques as to which