

hint of it when conjointly with his co-directors he found himself under the obligation of sustaining a resolution suspending payments generally. That resolution applied to all creditors alike. It did not, and could not, contain exceptions. And the moment it was passed no one concerned in the management of the affairs of the bank had the right to dispose of its funds contrary to its dispositions, that is, to pay withdrawals. It was, therefore, wrong, illegal, and unjust. The doors of the bank were shut to depositors generally, they should have been to Mr. Buntin also as such; and the moment he took advantage of his position as a director of the bank to persuade or influence, as may be fairly presumed, one of its employees to aid him in being paid in whole or in part his claim, and this against the order of the board of which he was a member, and contrary to the right and interests of the rest of the creditors, he committed a wrongful and illegal act, which, coupled with his cognizance of the difficulties of the bank, debarred him of the protection given to ordinary creditors when paid in ordinary circumstances before the thirty days. And this the accused so well understood, that he refunded the \$10,000 by him drawn when sued by the liquidators. Therefore, the pretension that the payment was legal is not sustainable, and cannot be accepted as an argument in favour of the accused.

But even if the payment had been legal the accused would still be attainable by section 61; for let it be remembered this section is only directed against presidents, directors and other functionaries of banks. Because the position of a paid-up or favoured creditor would, perhaps, in some instances, be legal, it does not follow that under that clause the president, director or other functionary of a bank who grants or concurs in giving such a favour is also legal. The section does not mention only fraudulent preferences, but also *undue* and *unfair* ones. Having been invested with great powers, and having in their hands, and to a certain extent, at their discretion the fortunes of citizens who have put their confidence in them, the law wants those functionaries to treat them all alike with the same fairness and justice. In this

case it is proven that depositors representing in the aggregate one million of dollars did not and could not receive a cent since the date of suspension, whilst some more favoured ones including the present accused, received in the aggregate somewhere about \$100,000, by what right and under what authority I fail to see. Is that just, is that fair towards the other creditors? Certainly not. It is such injustices and preferences which section 61 is intended to prevent, by submitting the perpetrators thereof to punishment. The evidence here leaves no doubt as to the fact that Mr. Buntin was paid contrary to the terms of the resolution, in the sum of \$10,000, to the detriment of others who had an equal right, and that he being then a director of the said bank, and having had to obtain the consent of the president of the bank to obtain such payment, he did, on the 19th and 28th days of September, 1883, concur in giving to himself as such creditor an undue and unfair preference over the other creditors of the said bank; wherefore it becomes my duty to order that the said Alexander Buntin stand his trial upon such accusation at the next term of the Court of Queen's Bench.

J. N. Greenshields and *T. Brosseau* for the complainant, *A. Davis*.

Strachan Bethune, Q. C., and *C. A. Geoffrion* for the defendant.

EXECUTIONS IN ENGLAND AND WALES.

A return has recently been prepared and presented to Parliament of the persons who were sentenced to death for murder in England and Wales for the three years ending the 31st Dec., 1883, in continuation of a former return. A perusal of this black list seems to show that the annual number of murders in England and Wales of which the perpetrators are brought to justice, remains at a pretty constant figure, as the number in 1881 was 24; in 1882, 22; in 1883, 23. The list includes the names of Lefroy, Mapleton, Lamson and O'Donnell, with those of less notorious characters, and in only two instances, curiously enough, is the case specified to have been one of infanticide. This is no doubt accounted for by the fact that out of