That case was one where the teller of the bank delivered the deposited bonds to a stranger, calling himself by the name of the bailor, without taking sufficient care to be certain that he was delivering the package to the right person, and the bank was held responsible for his negligence. There the teller, in giving out the deposit, was acting in his official capacity, and hence the liability of the bank. The case before us now is different, the bonds being stolen by the teller, who absconded. This teller was both clerk and teller; but the taking of the bonds was not an act pertaining to his business, as either clerk or teller. The bonds were left at the risk of the plaintiff, and never entered into the business of the bank. Being a bailment merely for safe keeping, for the benefit of the bailor, and without compensation, it is evident the dishonest act of the teller was in no way connected with his employment. Under these circumstances, the only ground of liability must arise in a knowledge of the bank that the teller was an unfit person to be appointed, or to be retained in its employment. So long as the bank was ignorant of the dishonesty of the teller, and trusted him with its own funds, confiding in his character for integrity, it would be a harsh rule that would hold it liable for an act not in the course of the business of the bank, or of the employment of the officer. There was no undertaking to the bailor that the officers would not steal. Of course there was a confidence that they would not, but not a promise that they should not. The case does not rest on a warranty or undertaking, but on gross negligence in care taking. Nothing short of a knowledge of the true character of the teller, or of reasonable grounds to suspect his integrity, followed by a neglect to remove him, can be said to be gross negligence, without raising a contract for care higher than a gratuitous bailment can create. The question of the bank's knowledge of the character of the teller was fairly submitted to the jury.

But it turned out that after the teller absconded, his accounts were found to be false, and that he had been abstracting the funds of the bank for about two years, to an amount of about $26,000.

It was contended that the want of discovery of the state of his accounts for such a length of time, especially as he had charge of the individual ledger, was such evidence of negligence as made the bank liable.

The Court negatived this position, and held that the bank was not bound to search his accounts for the benefit of a gratuitous bailor, whose loss arose not from the account as kept by him, but from a larceny, a transaction outside of his employment.

We perceive no error in this. The negligence constituting the ground of liability, must be such as enters into the cause of loss. But the false entries in the books, and the want of their discovery, were not the cause of the bailor's loss, and not connected with it. True the same person was guilty of both offences, but the acts were unconnected and independent.

Another complaint is, that the teller was suffered to remain in employment after it was known that he had dealt once or twice in stock. Undoubtedly the purchase or sale of stocks is not *ipso facto* the evidence of dishonesty; but as the judge well said, had he been found at the gaming table, or engaged in some fraudulent or dishonest practice, he should not be continued in a place of trust. So if the president of the bank, when he called on the brokers who acted for the teller in the purchase of stock, had discovered that he was engaged in stock gambling, or in buying and selling beyond his evident means, a different course would have been called for. No officer in a bank, engaged in stock gambling, can be safely trusted; and the evidence of this is found in the numerous defaulters, whose peculations have been discovered to be directly traceable to this species of gambling. A cashier, treasurer, or other officer, having the custody of funds, thinks he sees a desirable speculation, and takes the funds of his institution, hoping to return them instantly, but he fails in his venture, or success tempts him on, and he ventures again to retrieve his loss or increase his gain, and again and again he ventures. Thus the first step, often taken without a criminal intent, is the fatal step which ends in ruin to himself and to those whose confidence he has betrayed. Hence, any evidence of stock gambling, or dangerous outside operations, should be visited with immediate dismissal. In this case, the operations of the teller in stocks, as a gambler in them, were unknown to the officers of the bank until after he had absconded. Upon the whole, the case appears to have been properly tried, and finding no error in the record, the judgment is affirmed.—*Legal Intelligencer.*