

decided in the Circuit Court, for in that case the stock was transferred by parties who had no legal authority to make the transfer, not being clothed with the legal title, and having but a limited beneficial interest in the stock itself, and yet the Messrs. Wilson, who took the transfer from parties thus destitute of the legal capacity to sell, and having but a limited beneficial interest, being bona fide purchasers without notice, were protected. And it is very manifest, that unless purchasers may rely with confidence upon the certificate of the bank, as evidence of ownership, the difficulty of tracing out the true title and the distrust which must surround this description of property, will materially diminish its marketable value. In the case of *Hodges vs. the Planters Bank of Prince George's County, 7 G. & J., 306*, the Court of Appeals say—(speaking of a transfer of the stock of a bank made by the proper officers upon the books,)—"If fraud or collusion exist, it will, as in all other cases, vitiate the act; but if there be no fraud or collusion, the bank, and not the transferee, must abide the loss, if a loss be sustained by any act of the proper officer of the bank arising either from a misconception of his duty or a want of judgment."

So far, therefore, as the Savings Bank is concerned, they being bona fide purchasers without notice, it might not be necessary to show that the trustees, Samuel and Andrew D. Jones, had legal authority to transfer this stock. If the city of Baltimore suffered them to make the transfer upon their books, and issued a certificate to the transferee, the city, and not the transferee, must bear the loss; and whether the title to the stock passes or not, the latter will be protected; unless, indeed, the party by whose negligence or default the loss was occasioned should be incapable of making it good; which, of course, in this case cannot be supposed.

But my opinion is, that Samuel and Andrew D. Jones had the legal capacity to transfer this stock; though they may have committed a breach of trust in doing so.

In the entry in the books of the city there was added to their names, as proprietors of this stock, the word "trustees."

The language of the entry, as appears by the certificate, is,