

Pilkington (1897), 28 S.C.R. 146; *Forget v. Ostigny*, [1895] A.C. 318, Q.R. 4 Q.B. 118).

In the recent case of *Préfontaine v. Grenier* (1906), Q.R. 15 K.B. 143, involving the liability of a bank president for negligence, many English cases were cited. The members of the Judicial Committee, in affirming the judgment of the Quebec court, said that they thought that, in the absence of any legislation in force in Quebec inconsistent with the law as acted upon in England, and in the absence of any evidence of custom and course of business to the contrary, the Court of King's Bench was right in accepting the English rulings, because they were based, not upon any special rule of English law, nor upon any circumstances of a local character, but upon the broadest considerations of the nature of the position and exigencies of business: [1907] A.C. 110.

Propositions based upon the common law of England will not, however, always be applicable to the province of Quebec, and in a number of instances in the course of this book, attention will be drawn to differences between the law of that province and that of the rest of the Dominion. It is manifest that a bank must in many cases enter into contracts, and both incur and have the benefit of obligations, governed by the civil law of a particular province.

The following are some of the salient general differences between the English and the Quebec law in respect to matters which most frequently concern a bank.²²

(1) In Quebec the hypothecary system of the Roman law prevails. Under English law a mortgage is a conveyance of the mortgaged land to the mortgagee. The mortgagor retains only an equitable interest known as the equity of redemption. The legal title passes to the mortgagee, who on default may bring an action for foreclosure as well as asking for payment. In Quebec the mortgagor merely hypothecates or charges the land

(22) See "The Banker in the Province of Quebec," 13 J.C.B.A. 230 (April 1906), an address by R. D. McKibbin, introductory to a course of lectures on the Bank Act by A. Rives-Hall (13 J.C.B.A. 237, 298; 14 J.C.B.A. 58, 123, 232).