nothing more nor less than a promise by the bank to pay it when presented.‡ It follows of course that by certifying a cheque, the bank becomes the principal debtor, its obligation to pay being absolute, while that of the drawer is subsidiary and contingent.

All this is familiar law; the only questions raised by the principal case are whether it is negligence in the collecting bank to entrust the collection of the cheque to the bank by which it has been certified and is to be paid, and whether there is such a custom established as would defeat the charge of negligence.

It is the duty of the bank receiving for collection commercial paper payable at a distant point to transmit it speedily to a suitable agent at that place for collection, and when that is done, its liability is at an end.§ The question is, Who in case of the collection of a cheque is a suitable sub-agent. The Supreme Court of Pennsylvania says‖ that the bank upon which the cheque is drawn is not, because its interest is plainly to "delay instead of speeding payment." *A fortiori* is that the case, when by certifying a cheque it had become the principal debtor.

As to custom, the well established rule on that subject is that a custom to be binding must be uniform, long establishd, and generally acquiesced in, and so well known that parties contracted with reference to it, when nothing is said to the contrary.¶

It is often said that extremes meet, and it is a little curious to find that the managers of the defendant bank in this case, acute, wide awake men of business, *au fait* in all financial matters, as they no doubt are, have committed the precise blunder, for which, in a well-worn joke, the newspapers have laughed at two unsophisticated Dutch farmers. They were neighbours, friends, both ready money men who had never in their lives given or received a promissory note, but it so happened that one had occasion to borrow a small sum of money from the other. He suggested that "in case of death," he should give his note for the amount, and the note was drawn, inartistically perhaps, but probably it had the root of the matter in it. The question then arose: who was to keep the note? There was no precedent in the experience of either. The lender, however, solved the problem, shrewdly saying: "You keeps it Hans, for then you will know when the time comes for you to pay it."

‡ *Beckford* v. *First, etc. Bank*, 42 Ill. 242.

§ *Merchants Bank* v. *Goodman*, 2 Atl. R, 687, 690; *Bank of Washington* v. *Triplett*, 1 Pet. (U. S.) 25; *Fahens* v. *Mercantile Bank*, 23 Pick. 330; *Dorchester Bank* v. *New Eng. Bank*, 1 Cush. 182; *East Haddam* v. *Scoville*, 12 Conn, 308; *Ætna Ins. Co.* v. *Alton Bank*, 25 Ill. 247.

‖ *Merchants' Bank* v. *Goodman*, *supra*.

¶ *Turner* v. *Dawson*, 50 Ill. 85.

THE EVILS OF CASE-LAW.

(Continued from page 383.)

I have not time to go over the inherent badness of many lines of decisions; the confusion and uncertainty which arises from the conflicting decisions of different courts, and still worse, from conflicting decisions of the same court; the gross errors which have crept into the law in consequence of carrying precedents too far, or from applying the precedent of one case to another where it is inapplicable; and still further, from applying obsolete maxims and legal fictions to the obstruction of justice, when they were never devised or intended to be used except to promote justice. All these matters are familiar to every practitioner, and only need now to be alluded to. But what I wish to suggest is this: That where the result of a hearing or argument in the higher court is simply an affirmance of the judgment or decree of the court below, there is not, in a large majority of cases, any adequate or sufficient reason for the preparation of any written opinion at all, and still less for its publication. If the case is properly tried below, without substantial error, and the judgment or decree is correct, then the legal world is no better and no wiser, and sometimes it is made much less so, by the preparation and publication of opinions explaining the case, and answering the points of the losing party, especially as such points have already been effectually answered and disposed of in the court below. And it is because the writing of opinions which are unnecessary and useless only aggravates the evil of which I am speaking, that I again suggest, as has often been suggested before, that the judges should be relieved, or should relieve themselves, of such work.

A Common Pleas judge in one of our largest commercial cities, has for several years made it his practice, as I am informed, never to hold a case over night for consideration, never to write an opinion, and never to give a reason for a decision. And it was added by my informant, who was a prominent member of his bar, that his decisions were reversed less frequently, in proportion to the number appealed from, than those of any other judge in the State. And it was also said that