

*REVIEW OF CURRENT ENGLISH CASES.**(Registered in accordance with the Copyright Act.)*

BANKER—DUTY TO ADVISE CUSTOMERS AS TO INVESTMENT—AUTHORITY OF BANK MANAGER—LIABILITY OF BANK—PAROL REPRESENTATION—STATUTE OF FRAUDS AMENDMENT ACT 1828 (9 GEO. IV. c. 14), s. 6—(R.S.O. c. 102, s. 8).

Banbury v. Bank of Montreal (1917) 1 K.B. 409. This was an action by the customer of a bank to recover damages for loss sustained by the plaintiff owing to his having relied on the advice of one of the defendant's managers in making certain investments. The facts of the case were that the plaintiff came from England to Canada in 1911 and stayed at Montreal with the general manager of the defendant bank, who gave him letters of introduction to branch managers and asking them to give plaintiff advice and assistance if he desired it. In 1912 he again visited Canada and went to Vernon, B.C., where he called upon the manager of the branch of the defendant bank at that place, upon whose advice he invested £25,000 upon a mortgage to secure a loan to a Canadian company, a customer and debtor of the bank. The advice alleged to have been given by the manager consisted of oral representations as to the credit of the company and the merits of the investment, and it was admitted that the advice was honestly given. The company failed to pay either principal or interest. It was admitted that the bank did not, and, according to the law of Canada, could not advise as to investments, and it was admitted that the branch manager had no general authority so to do. The action was tried by Darling, J., with a jury. The jury found that the branch manager had authority to advise the plaintiff as to his investment, and that he did advise him that the proposed investment would be a safe one; and that the plaintiff relied on the advice and invested his money, and they assessed the damages of the plaintiff at £25,000 for which amount Darling, J., gave judgment. The Court of Appeal (Lord Cozens-Hardy, M.R., and Warrington, and Scrutton, L.JJ.), however, found that the findings of the jury were unwarranted by the evidence, and that the alleged representation, even if made, could not give rise to an action, not being in writing as required by 9 Geo. IV. c. 14, s. 6; (see R.S.O. c. 102, s. 8).