AUTHORITY OF BRANCH MANAGER

The extent of the authority of the Branch Manager of a Canadian Bank to bind the Bank is one of considerable importance, and the leading case along this line is of course, the case of Banbury vs. Bank of Montreal decided by the British House of Lords.

In the Banbury case an Englishman on a visit to Canada called on the general manager of the Bank of Montreal who gave him a circular letter of introduction to the branch managers of the bank, saying that "should he apply to you for assistance or advice you will be good enough to place yourself at his disposal."

The English visitor presented this letter to the manager of the Bank of Montreal at Victoria, B.C., who induced him to invest $125,000 in a shady Company which was an unsatisfactory customer of the Victoria Bank. The $125,000 went the way of all lost cash, and the loser started suit against the Bank of Montreal in the English Courts to recover his Canadian coin.

The decision was in favor of the bank, however, on the short ground that the bank was under no obligation to advise the Englishman re investments and was not responsible for the advise of the Victoria Manager.

The letter in question, the House of Lords said, "was nothing more than a friendly letter, and the writing of it was merely a courtesy in trying to procure for Banbury as he went from place to place a good reception, and the performances of the friendly services he mentioned. The letter is addressed to all the local managers without distinction. It is a kind of a circular letter. There is nothing ambiguous about it. It contains no reference to investment or explicity to any business matter. And it is, in my mind, perfectly impossible to believe that a man of sagacity and experience in business, such as Sir Edward Clouston must have been, could ever have intended to create between Banbury and the Bank of Montreal, through the agency of any bank manager to whom the letter might be presented, the legal and confidential relation, of advisor and advised, on the subject of investment of money, entailing on the bank all the responsibilities which such a relation would impose."

The Banbury case was decided in 1913, and it is instructive to compare with it the recent decision of the Manitoba Court of Appeals in the case of the Merchants Bank of Canada vs. Stevens decided in December 1919.

In this case one Robinson carried on a Motor Business in Winnipeg, under the name of the Winnipeg Motor Company, and was heavily indebted to the Merchants Bank through the Winnipeg Branch of which one Patterson was Manager. Robinson sold out to Baxter & Martin, who put no money in the business, but paid Robinson $5000.00 which the Bank advanced. The liability to the Bank kept increasing until it was over $40,000.00, and then Baxter and Martin borrowed $7,000.00 on a chattel mortgage, giving a post-dated check initialed by Paterson.

Two weeks later Baxter borrowed $10,000.00 from Stevens, giving four post-dated checks to cover the amount, which checks were initialed by Patterson, who also gave Stevens the following letter on the Bank's printed Stationery:—

In connection with the loan of $10,000.00 which we understand you are granting to the Winnipeg Motor Company, to be repaid at the rate of $2,000.00 per month, and the balance at the end of four months, we beg to notify you that this bank is prepared to grant the company a credit sufficiently large to enable them to take up these installments as they mature, and hereby guarantees payment of the said loan.

The Stevens loan was deposited to Baxter's credit in the Merchants Bank, and Paterson reported it to the head office as "New Capital Invested."

A few weeks later Paterson left the Bank, Stevens sued the Bank on the above guarantee, and Bank defended on the ground that Paterson had no authority to give such a document on behalf of the Bank.

The Manitoba Court of Appeal decided in favor of the Bank on the ground that the Manager in giving the guarantee was acting beyond his authority and outside the scope of his employment.

"In so far as the writing purports to be a guarantee of the debt of a third party it is not binding on the bank" said the Chief Justice, in referring to the Paterson letter quoted above. "No authority to the agent to give such a guarantee was proved. I doubt whether the general manager of the bank could have bound the bank if he had signed the letter in the way the local manager signed it. The seal of the bank was not affixed and there is nothing shewn which dispenses with the sealing of the instrument."

"I believe it has been the intention of Parliament," said another judge, "in the interest of shareholders, depositors and the public generally, not to extend unduly the powers of banks, but to keep them within well defined and well understood limits. Falconbridge on Banking, 2nd ed. at p. 177 et seq., gives an enumeration of the powers of a bank, and they are all well known to the public But in none of them can we find authority for holding that the giving of guarantees or of undertakings by a bank to become responsible for the debts of others has been part of "such business