

JUDICIAL COMMITTEE OF THE PRIVY
COUNCIL.

LONDON, NOV. 4, 1887.

Before LORD FITZGERALD, LORD HOBHOUSE,
SIR BARNES PEACOCK, AND SIR RICHARD
COUCH.

LA BANQUE JACQUES-CARTIER, Appellant, and
LA BANQUE D'ÉPARGNE DE LA CITÉ ET DU
DISTRICT DE MONTRÉAL, Respondent.

*Principal and Agent—Bank suspending pay-
ment—Powers of Agent—Ratification or
acquiescence.*

*Appellant and respondent are banks,—the latter
being a savings bank. On the 13th September,
1878, appellant's cashier, C., obtained a loan
in his own name from the respondent bank
on the security of shares of the appellant
bank standing also in his own name, and
the loan was also renewed in the same way.
The appellant bank stopped payment 15th
June, 1875, and its new executive officer or
administrator (who was also manager of
the respondent bank) on the 23rd June,
1875, altered the books of appellant, so that
the loan appeared to be a transaction of
appellant and not of C. personally, and on
the 29th July, 1875, the pass-book between
appellant and respondent was altered in
accordance with the same pretension. In
September, 1875, the respondent's manager
ceased to have any authority in the appellant
bank, but the entries made by him, or by his
direction, were not repudiated by the appel-
lant's new board until 5th August, 1876.*

HELD:—*Reversing the judgment of the Court of
Queen's Bench, Montreal, M.L.R., 2 Q.B.
64, that the failure of the new administra-
tion of the appellant bank to repudiate the
entries until 5th August, 1876, did not
operate as a ratification of the unauthorized
act of the respondent's manager while acting
as administrator of the appellant bank, and
in any case the ratification of an act of such
a nature would be ultra vires of the board
representing the appellant bank after its
stoppage.*

PER CURIAM:—The appeal now before the
Committee, in which La Banque Jacques-
Cartier is plaintiff and appellant, and La
Banque d'Épargne is defendant, appears to

their Lordships to involve no question of
importance or difficulty, or in its result to
affect any interests save those of the litigants
in respect of the sum of \$25,000, the subject
of the loan of the 13th of September, 1873.

The parties have now no controversy, save
as to the liabilities of the one party, or the
rights of the other arising out of that one
transaction, and its attendant or following
circumstances. They have wisely, by con-
sent, limited the inquiry, and thus relieved
the courts below and their Lordships from
complications and apparent difficulties. The
case is one depending mainly on matters of
fact, and their Lordships do not think it to
be necessary to take any further time for
consideration.

The plaintiffs represent a bank incor-
porated by a Canadian statute and governed
by the rules which the statute enacts or
incorporates, and amongst others, by section
40, which in negative words prohibits the
the Banking Company from trafficking in
its own shares. The words of the 40th
section are these: "The bank shall not either
"directly or indirectly lend money or make
"advances upon the security, mortgage, or
"hypothecation of any lands or tenements,
"or of any ships or other vessels, nor upon
"the security or pledge of any share or
"shares of the capital stock of the bank."
It then defines what they may deal with,
and in a subsequent section, which it is not
necessary to refer to more particularly, gives
them authority to lend money on the shares
of other banks, but not their own.

The defendant bank, as its name indicates,
is a savings bank incorporated under
another Canadian statute to which it is
not necessary now to refer. The two banks
seem to have had large and legitimate trans-
actions prior to the 13th of September, 1873,
and also subsequent to that date down to
the 15th of June, 1875, when the appellants
stopped payment and closed their doors.
The general course of dealing was that the
savings bank from time to time deposited
large sums in the plaintiffs' bank, to be held
by the latter at call, or for short stated
periods at interest, but without security.
This practice and course of dealing continued
to the end of 1874, when there being \$600,000