

was necessary and had been made as to the other, we may well infer that the representation as to that would have been the same.

The only evidence as to custom was that given by Mr. Brodrick, furnished by his experience as a banker. And where we have the universal custom detailed as to the mode of transfer of such securities both in England and the United States, in *Colonial Bank v. Hepworth*, and *Colonial Bank v. Cady*, which accords with Mr. Brodrick's evidence, we may conclude that the custom in Canada does not differ with that of bankers in Great Britain and the States. In *The Colonial Bank v. Cady*, five officials of London banks were examined by the appellants as to the custom by banks in dealing with transfers of such certificates.

I have not considered the question as to the effect of the bank having taken a separate assignment from Hubbell by hypothecating the certificates when the advances were made, as I consider on the authorities the bank is entitled to retain the shares as against the plaintiff. But one observation may be made as to the hypothecation sheet pledging the Commercial Cable stock. It pledged two shares of the same stock standing in the name of V. C. Nicholson, which had been purchased by Rogers and Hubbell, and which the bank sold on the 3rd of August, three months after it had been pledged.

The appeal will, therefore, be allowed with costs, and judgment directed to be entered for the defendants the Molsons Bank, dismissing the action as against it with costs.

ROSE, J.—The opinions of the other members of the Court are so full that I content myself with expressing my concurrence in the result reached by them, that the appeal must be allowed.