

on coming into the hands of the payee, then it stands to reason that such is the rule he should follow, and that he should not decline to follow that rule merely because there is a single exception which a man may not meet in twenty years, under which he may possibly suffer some inconvenience or loss. It is a matter not of law that I am now discussing, but a matter of business; and I would like to hear the opinions of those present as to whether I am right in my belief that the great bulk of the cheques issued by drawers do get into the hands of the payees, that the exceptions are few and far between, and that as to those exceptions, the cases in which trouble arises are also few and far between. These are questions of fact.

Several Associates assented to Mr. Lash's propositions on the question of the percentage of cheques which reaches the payee's hands.

THE PRESIDENT—The law in Canada as to crossed cheques is exactly the same as in England, with the one exception that in this country we can uncross a cheque, and in England that cannot be done.

MR. LASH—Yes.

MR. PLUMMER—They do it in England as a matter of practice.

MR. LASH—I was speaking of it as a matter of law.

MR. PLUMMER—The London banks pay cheques that are opened or un-crossed by the drawer or the payee.

THE PRESIDENT—The law then is the same in Canada as exists in England; that is something that should be kept in mind when we see a test case in England; with the one exception I referred to, we can apply it to ourselves here.

MR. PLUMMER—I would like to ask Mr. Lash, before we close the discussion, whether it is quite clear that, under the usual practice we have in Canada of not collecting cheques for our customers, but receiving the cheques for the credit of the customer's account, that is to say, negotiating them and becoming the holders, we are protected under the section he quoted?

MR. LASH—This is entirely a question of fact, not a question of law, except so far as the law would apply to the facts when they are ascertained. The mere fact that a cheque is put to the credit of a customer's account does not of itself make the transaction not one of collection; it depends entirely upon the understanding and agreement between the bank and its customer. Very frequently, as a matter of convenience in book-keeping, the whole thing goes into one account; but because it goes into one account that does not of itself show that it is one or other of the two transactions; the real fact must be found.