

REVIEW OF CURRENT ENGLISH CASES.

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BANK—BANKER'S LIEN—STOCK BROKER—PLEDGE OF CLIENT'S SECURITY—OVERDRAFT.

Cuthbert v. Roberts (1909) 2 K.B. 226 was an appeal from a decision of Jelf, J. The plaintiff had employed one Cancellor a stock broker to purchase American shares for her, and to provide the purchase money therefor, she had authorized him to borrow money on certain Provident Clerk shares worth £1,350 of which she executed a transfer to him. Cancellor saw the manager of the defendants' bank who, as the court held, understood that the shares to be deposited did not belong to Cancellor, but to a customer of his. The result of the interview was that the defendants agreed to give Cancellor an overdraft "up to £1,350 for three months at bank rate against Americans worth about £1,350 and transfer certificates (with letter of authority) of 100 shares Provident Clerks." Cancellor bought the American shares but instead of borrowing the money and paying for them, he carried over the transaction on the Stock Exchange and the price having fallen the plaintiff became liable for differences amounting to £240. Cancellor then borrowed from the bank £250 from the bank who opened a loan account and credited his current account with that amount. On the settling day many cheques of Cancellor were presented to the defendants and honoured by them with the result that Cancellor's account was £500 overdrawn. The bank claimed to be entitled to a lien on the plaintiff's Provident Clerks shares for the general balance due to them by Cancellor, but Jelf, J., held that having notice that those shares were not the property of Cancellor the defendants were only entitled to hold them as security for anything except the actual loan made thereon, viz., £250, and his judgment was affirmed by the Court of Appeal (Cozens-Hardy, M.R., Buckley and Kennedy, L.J.J.), that court holding that a banker's general lien on securities of a customer in its hands does not attach to securities deposited by the customer for a specific purpose and known by the bank to belong to a third party. Furthermore that although the drawing of a cheque by a customer for an amount in excess of that standing to his credit is in effect a request for a loan, and if heoured the amount advanced is in fact a loan, yet it does not follow that a borrowing of that kind is a borrow-