transferor and the debtor is perfected by the signification. The universal practise of Banks to pay checks on presentment, with the funds of the drawer, would constitute a law based on custom. This usage has been established in the interest and at the request of the Banks. There would be fewer deposits if depositors were under the necessity of presenting themselves in person to obtain the payment of moneys deposited. Few would accept checks if this appearance in person were necessary. There are manifold inconveniences in the system advocated in the plea of the Bank, in which the absence of *lien de droit* is opposed to the bearer, and the Bank has no interest to oppose such want of privity. The action by the bearer is the same as that which the depositor might have brought.

"A check differs both in law and usage from a bill of exchange. It is from this difference that the right of the bearer to proceed directly against the Bank necessarily flows. It has never been doubted that payment to bearer is a good payment to the drawer, the same as though payment had been made to himself. That shows that the bearer can give a discharge, because by the transfer he is really the creditor. Article 2351 of the Civil Code entirely confirms the principle stated. After providing that the holder of a check is not bound to present it for acceptance apart from payment, it is added, 'nevertheless, if it be accepted, he has a direct action against the Bank or banker, without prejudice to his claim against the drawer.' This is simply the application of the principles and rules which govern sales of debts and rights of action. Articles 1570 and 1571 Civil Code. This is shown by article 1573."

80. This point does not seem to have been raised in any of the other Provinces, so the question as to the rights of a holder against a Bank, without acceptance, elsewhere in Canada than in Quebec must remain an open one. (1)

81. Where the customer paid to his banker a certain sum, with the express contemporaneous stipulation that it should be used to take up a bill which he had accepted payable at the house of his banker's London correspondent, and afterward, upon the customer's becoming insolvent, and before the banker had advised his London correspondent to pay the bill, the banker appropriated the sum to meet the indebtedness of the customer to him, it was

(1) But see Boyd *v.* Nasmith, 17 Ont. App. Rep. 40.