

testimony was not contradicted, the plaintiffs' agent having died some years before the commencement of the action; and the trial judge credited the testimony.

Held, that it was sufficient without direct corroboration and, in the absence of facts or circumstances of countervailing weight, should be accepted.

Held, also, that the plaintiffs were bound by the material representations of the agent, who was duly authorized to solicit subscriptions for shares, whether those representations were made in good faith and with a belief in their fulfilment or not.

Held, lastly, that where contemporaneously with a written agreement there is an oral agreement that the written agreement is not to take effect until some other event happens, oral evidence is admissible to prove the contemporaneous agreement.

Wallis v. Little, 11 C.B.N.S. 69, applied and followed.

Watson, K.C., and *Dow*, for appellants. *Porter and Medd*, for respondent.

From Street, J.]

[April 12.

TORONTO GENERAL TRUSTS CORPORATION v. CENTRAL
ONTARIO R.W. Co.

*Pledge—Securities—Railway bonds—Bank—Power of sale—
Construction—Notice—Abortive auction sale—Subsequent
private sale.*

As collateral security to a promissory note, the makers deposited with a bank 300 railway bonds, and, by a memorandum of hypothecation authorized the bank, upon default, "from time to time to sell the said securities . . . by giving 15 days' notice in one daily paper published in the City of Ottawa . . . with power to the bank to buy in and re-sell without being liable for any loss occasioned thereby."

Held, reversing the judgment of Street, J., 7 O.L.R. 660, Osler, J.A., dissenting, that the power was to sell by auction, and that the bank had no power to sell by private contract.

Semble, that, even if there was power to sell by private contract, the sale made to the respondents could not upon the evidence as to the methods adopted, be supported, they having notice that the bank held the bonds as pledgees.

Aylesworth, K.C., and *J. H. Moss*, for appellant. *G. T. Blackstock, K.C.*, and *T. P. Galt*, for respondents.