

in a joint account in a branch of the Molsons Bank to the credit of Thomas Smith and Isaac Smith (the plaintiff) had become the absolute property of the plaintiff upon the death of his father, Thomas Smith, and that he was entitled to payment thereof.

The action was tried without a jury at Chatham.

R. L. Brackin, for the plaintiff.

R. L. Gosnell, one of the executors in person and on behalf of his co-executor.

O. L. Lewis, K.C., for the defendant William Perrin.

FALCONBRIDGE, C.J.K.B., in a written judgment, said that on the 9th June, 1917, the plaintiff and his father called at the bank and signed a paper-writing, in the form of a letter addressed to the manager of the branch of the bank, in which it was stated that "the undersigned hereby agree jointly and severally with the Molsons Bank and each with the other that any moneys which may from time to time be placed to the credit of our joint names, and the interest thereon, shall be subject to withdrawal by either of us, and that the death of one of us shall not affect the right of the survivor to withdraw such moneys and interest. And each of the undersigned irrevocably authorises the said bank to pay any such moneys and interest to either one of us and in the case of death to the survivor."

The father took away the bank pass-book, shewing the commencement of the account. It was quite clear that the plaintiff did not contribute to the amount of the deposit—it was entirely the money of the father.

There was now standing to the credit of the account, after adding accrued interest, more than \$1,600.

The father died on the 27th August, 1917, having on the 21st August, 1917, made his will, which had been admitted to probate. By the will, which made no mention of the deposit account, after a direction to pay debts etc., he made specific bequests of all his estate, among them a bequest to the plaintiff of \$300, and directed that if there was a surplus it should be divided among the legatees proportionately, but if there was a deficiency it should be made up by a proportionate reduction of all the bequests to the legatees except William Perrin, whose legacy, \$500, was the largest.

If necessary, the other legatees should now be made parties.

Evidence was admitted as to the intention of the testator; there was some evidence that he wished the plaintiff to have the moneys deposited in the bank. He made his will with full knowledge of what he was doing.