

law of Canada. Mr. Justice Taschereau, before whom the case came in the first instance, held that the substitution could not be made effectual. This judgment was reversed on appeal, the learned Judges holding that the substitution could be made and was directed in such terms as might have been carried into effect. The point is fully argued in the respondents' case, but the question has not been the subject of argument before this Board. For the purpose of the present appeal their Lordships will assume that it was the duty and in the power of the trustees and executors to see that either by transfers qualified as in the case of certain of the other children, or in some other way the substitution was provided for or declared.

The argument of the appellants involves the consideration of two questions; first, whether the Bank had any notice, and if so what notice, of the trust created by the testator's will, in so far as the testator directed substitutions to be made to affect the divided parts of the residue of his estate; and, secondly, whether if the Bank had notice it was such as to make it the duty of the Bank to refuse to register the transfer in question because of the absolute terms in which it was expressed.

The Statute incorporating the Molsons' Bank (18 Vict., c. 202) contains this provision in Section 36, viz.:—"The Bank shall not be bound to see to the execution of any trust whether express, implied or constructive to which any of the shares of the Bank may be subject." This language is general and comprehensive. It cannot be construed as referring to trusts of which the Bank had not notice, for it would require no legislative provision to save the Bank from responsibility for not seeing to the execution of a trust, the existence of which had not in some way been brought to their knowledge. The provision seems to be directly applicable to trusts of which the Bank had knowledge or notice; and in regard to these the Bank, it is declared, are not to be bound to see to their execution.

Apart from the provision of the Statute it may be that notice to the Bank of the existence of a trust affecting the shares would have cast upon them the duty of ascertaining what were the terms of the trust; and that in any question with the beneficiaries, whose rights had been defeated by the absolute transfer in favour of Alexander Molson, the Bank, whether they had inquired or not, might have been held to have constructive knowledge of all the trust provisions. Assuming this point in