

The defence relied upon Article 1301, of the Civil Code, which says that a wife cannot bind herself either with or for her husband otherwise than as being common as to property. The Court below maintained the action, and gave judgment in favor of the bank, holding that the fact that the wife bound herself with her husband's authorization did not create a presumption that she bound herself for him; that consideration for the note was presumed, and it was for her to rebut this presumption. The Court below further laid down the principle that a wife cannot invoke Article 1301 against a third party, holder of a note for consideration, unless she proves that the holder was aware of the nullity of the obligation at the time he took the note.

The evidence established that the endorsers endorsed the note at the husband's request, for his accommodation, without consideration received by the wife. The Cashier of the bank did not recollect who presented the note for discount. It resulted from the proof that the note was signed by the wife for her husband, who received the proceeds of the discount and used the money for his business. The discount was obtained by the husband in the name of the endorsers.

The judgment of the Court of Appeal, reversing the above, was delivered by the Chief Justice, Sir Alexandre Lacoste, and was to the effect that the nullity under Article 1301, is a matter of public order, and may be invoked even against third parties in good faith. Third parties should be on their guard. If a wife could not invoke nullity as to third parties, it would be too easy to evade the provisions of Article 1301, and the nullity would be only relative.

PROVINCE OF NEW BRUNSWICK.

IN THE SUPREME COURT.

Landry v. the Bank of Nova Scotia.

In this case Landry drew and endorsed a bill of exchange and delivered it to the bank to discount, which they agreed to do if the bill was accepted. After acceptance the bank refused to give up either the proceeds or the bill, claiming the right to apply it to the payment of a debt Landry owed to them. It was contended that they had a right to do this, as they did not convert