

Provinces, and Newfoundland, so that St. Stephen's Church in Saint John was one of the churches. And there can be no doubt that this bequest was intended for one of the religious or charitable schemes of that church, and as the fund was not incorporated, it by virtue of this section vests in this corporation for the benefit of the scheme mentioned. Section 3 makes provision for the appropriation and application of the money, and section 12 authorizes this Board of Trustees under the corporate seal, to give a discharge on payment. The evidence does not make it very clear whether the distinction between the eastern and western sections is still kept up or whether it existed or not at the time the will was made. This seems to me to be unimportant. The fund was the same whether for the convenient management or application of it there were two divisions or sections or one. In either case it was the Aged and Infirm Ministers Fund in connection with St. Stephen's Church in the city of St. John and should, I think, be paid to the defendants, the Board of Trustees of the Presbyterian Church in Canada, Eastern section, for the Aged and Infirm Ministers Fund.

Costs out of residuary estate. Plaintiffs costs to be taxed as between solicitor and client.

NEW BRUNSWICK.

SUPREME COURT, CHANCERY DIVISION. OCT. 18TH, 1910.

TILLEY v. DEFOREST ET AL.

Specific Performance — General Assignment — Goodwill of Business—Trade-mark.

M. G. Teed, K.C., for the plaintiff.

Daniel Mullin, K.C., for the defendant J. Harry W. deForest.

Amon A. Wilson, K.C., for the defendant J. Harvey Brown.

BARKER, C.J.:—This case lies within a very narrow compass, and the facts upon which its decision rests are substantially not disputed.

Previous to the year 1894 the firm of George S. deForest & Sons consisting at that time of the defendant Harry W. deForest and his brother Clarence W. deForest, carried on a general wholesale grocery business at Saint John dealing among other things largely in teas. They eventually put upon the market a particular blend of tea under the name of