

dishonour sent to plaintiffs. The Dominion Bank, who had credited the plaintiffs with the amount, afterwards charged it back against the plaintiffs, who base their action on the ground that the notice of dishonour was not in time. The plaintiffs have already examined the agent of the bank at Ayr, and now seek to examine the teller, as an officer of the bank, for discovery.

F. Arnoldi, K.C., for plaintiffs. The teller can alone give the discovery required as to the noting of the cheque. *Dawson v. London Street R. W. Co.*, 18 P. R. 223, shews that the teller is an officer of defendants examinable for discovery.

W. H. Blake, for the defendants the Canadian Bank of Commerce. The discretion exercised below should not be interfered with. The fullest discovery had been afforded to plaintiffs. The teller is not an officer: *Ontario Bank v. Shields*, 33 C. L. J. 393.

The Court (FALCONBRIDGE, C.J., STREET and BRITTON, JJ.) delivered judgment at the conclusion of the argument, holding that the order below was right; that there was nothing to examine about; and that *Ontario Bank v. Shields*, *supra*, was well decided. Appeal dismissed with costs.

Arnoldi & Johnston, Toronto, solicitors for plaintiffs.

Blake, Lash, & Cassels, Toronto, solicitors for defendants.

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JANUARY 23RD, 1902.

DIVISIONAL COURT.

EVANS v. EVANS.

*Will—Executory Devise—Period of Vesting—Attaining Majority and Death of Life Tenant—Double Event Necessary.*

Appeal by plaintiff from judgment of FALCONBRIDGE, C.J., in action for construction of will of John Evans, deceased. The testator died in 1865, leaving a widow and six sons, and three daughter surviving. Walter Evans, a son of the testator, died intestate without issue on November 2nd, 1899, leaving surviving his widow, the plaintiff. Betsy Evans, the testator's widow, died on February 20th, 1901. The testator devised all his real estate to trustees in trust "to permit and allow my wife, Betsy Evans, to have, use, occupy, and enjoy during her natural life said lot 2 in the fourth concession, East Gwillimbury, with dwelling-house, etc., free of rent or charge except taxes, which are to be paid by her, and from and immediately after her decease,