

stream after setting off the 50 arpents. Those claiming under the other three sons have taken similar shares in the land west of the stream.

It was agreed by all that the 50 arpents should be taken from the east end of the lot in question, so as not to interfere with the partition which has heretofore been made, particularly that dealing with the land to the west.

It is contended that the testator used the words "arpents" and "acres" interchangeably, and that 50 acres should be measured from the east end of the lot, instead of 50 arpents; the difference being between 7 and 8 acres. I do not think this is so, and I think the line shewn as the 50-arpents line upon the plan put in is the governing line.

The first real difficulty arises upon a clause of the will which I have not referred to, which, the Chief Justice held, interprets the words "to hold to them as aforesaid" found in the gifts to the sons. The testator had previously given to each son other parcels of land, following the gift by this provision, "to have and to hold to each of them for and during their natural life respectively and if they should marry after and after their and such of their decease to have and to hold to their surviving wife respectively, on the demise of their or each of their wives to hold to their children respectively and their heirs forever."

The question raised before the learned Chief Justice was the applicability of this clause to the devise of the shares in the 50 arpents, and as to the effect of the clause. The learned Chief Justice held that each son took an estate for life, his widow, if he left one, an estate for life after his death, and his children the remainder in fee after her death, or if no widow was left then in fee after the death of the life-tenant. He negatived the contention that the case was governed either by Wild's Case or Shelley's Case. The result was simply a declaration that the vendor could not make a good title.

Upon the argument before me the effect of the devise was attacked upon a totally different ground. It is said that the gift to the children is void for remoteness. Manifestly the wife of the son then unmarried might be a person not born at the time of the testator's death; so that the gift to the children is a contingent remainder dependent upon the life estate of a person not yet born. It is true that these children are also the children of the son, who was of course in esse at the time of the death; and at first I was inclined to think that this might make a difference. I do not think that the true principle applicable