as would be recoverable had plaintiff commenced the action originally against both defendants, and charged them as surviving executors. If defendant G. W. L. Hickling set up new matter after order allowing plaintiff to amend by adding C. M. Hickling, the defendant G. L. Hickling should be allowed the costs of the original statement of defence.

C. W. Plaxton, Barrie, solicitor for plaintiff.

McCarthy, Boys, & Murchison, Barrie, solicitors for defendant G. W. L. Hickling.

Stewart & Stewart, Barrie, solicitors for defendants as trustees.

ROBERTSON, J. JANUARY 7TH, 1902.

TRIAL.

ONTARIO BANK v. POOLE.

Promissory Note—Want of Consideration—Effect of—Bank—Receipt of Note for Specific Purpose—Notice—Effect of—"Holder in Due Course" — "Negotiate" — Bills of Exchange Act, 1890, sec. 29.

Watson v. Russell, 3 B. & S. 24, distinguished; Lewis v. Clay, 67 L. J. N. S. at p. 227, approved.

Action to recover amount of a promissory note made by defendant in favour of plaintiffs for $1,500, dated 30th March, 1901, and payable three months after date. The defendant alleged that the note in question was made by him as an individual shareholder in the Consolidated Pulp and Paper Co. for the purpose of obtaining from plaintiffs an advance of money for the company, of which the plaintiffs were aware, and received it from one Edwards with that notice, but have never made the advance. On 3rd May, 1901, defendant wrote plaintiffs demanding back the note, having learned for the first time that it was held and used for other purposes by them.

J. H. Moss and C. A. Moss, for plaintiffs.

E. D. Armour, K.C., and F. E. Hodgins, for defendant.

ROBERTSON, J.:—Watson v. Russell, 3 B. & S. 34, is distinguishable because here no consideration was given by plaintiffs, who refused to discount for the benefit of the company in the manner and for the purpose for which defendant had signed it. No property in the note passed, and plaintiffs could not apply it as collateral to an advance long before made, for which the maker was in no way liable. The plaintiffs are, therefore, not holders for value, and it is not necessary to show notice. The note was never negotiated, and the bank, moreover, is not "a holder in due course," in the sense required by sec. 29 of Bills of Exchange Act, 1890: