persons who in the meantime may have acquired rights for valuable consideration from or through the heirs or devisees, or some of them"—words which would be senseless unless the effect of the registration of the caution was to re-vest the land in the personal representatives, and they have the effect of preventing the registration of the caution from having the effect of revesting the shares of beneficiaries which had been transferred for valuable consideration to other persons.

Then, by sec. 16, the executors and administrators, in whom the real estate is vested under the Act, are deemed to have full power to sell and convey the real estate.

I am unable to agree with the view to the contrary contended for by Mr. Heighington, and supported by the opinion of Mr. Armour which he cited. It may be that the statute is not well drawn, but the language used presents no difficulty in the way of giving effect to what is the very plain intention of the provisions I have had to construe.

The result is, that there will be a declaration that, in the circumstances of this case, the personal representative, with the consent of the official guardian acting on behalf of infants, may exercise the powers conferred by sec. 16 of the Act.

I suppose, as this may be treated as a test case, it would not be reasonable to make Mr. Heighington's client pay the costs.

MULOCK, C.J. MARCH 25TH, 1909.

TRIAL.

LA BANQUE NATIONALE v. USHER.

Husband and Wife—Promissory Note Signed by Wife at Request of Husband—Absence of Fraud—Husband Acting as Agent for Bank—Note Given to Secure Indebtedness of Husband to Bank—Wife Acting without Independent Advice—Liability.

Action upon a promissory note made by the defendant William J. Usher and the defendant Nellie Usher, his wife.

F. A. Magee, Ottawa, for plaintiffs, cited, among other cases, Howes v. Bishop, 25 Times L. R. 171.

W. L. Scott, Ottawa, for defendant Nellie Usher.