

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

LONDON, 23 February, 1895.

Present: The LORD CHANCELLOR, LORDS WATSON, HOBHOUSE, MACNAGHTEN, SHAND, and DAVEY, and SIR RICHARD COUCH. SIMPSON et al. (plaintiffs *par reprise d'instance*), appellants, and THE MOLSONS BANK (defendant in court below), respondent.

Bank—Trust—Notice of.

The Statute incorporating the Bank respondent (18 Vict., ch. 202), provides that "the Bank shall not be bound to see to the execution of any trust whether express, implied or constructive, to which any of the shares of the Bank may be subject."

HELD: *The Bank were relieved by the clause in question of the duty of making inquiry, and could not be held responsible for registering a transfer of shares belonging to a substitution where the executors making the transfer were apparently vested with power to sell or transfer, unless it were shown that the Bank were at the time possessed of knowledge which made it improper for them to do so.*

LORD SHAND:—

The Honourable John Molson died on the 12th July, 1860, leaving a will dated the 20th April of that year, and this appeal from a judgment of the Court of Queen's Bench for Lower Canada relates to 640 shares in the Molsons Bank, Canada, which formed part of the residue of his estate. The complaint of the appellants is that the Bank, the respondents, wrongfully registered in the books of the Bank a transfer of these shares granted by William Molson and Alexander Molson, executors under the will, in favour of Alexander Molson the testator's son, to the loss and injury of the appellants, as having right to have the shares secured to them under a substitution in favour of Alexander Molson's children contained in the will of their grandfather John Molson. Their claim of damages has arisen in consequence of the insolvency of Alexander Molson who transferred the shares in question to third parties who cannot be affected by the substitution founded on.

By his will Alexander Molson made the following provisions relative to the residue of his estate:—

"Tenthly. And as to the residue of my estate real and personal wheresoever the same may be and of whatsoever the