

No. 7480 Equity.

make bad law and hence it is in the end, far better that the established rules of law should be strictly applied even though in particular instances serious loss may be thereby inflicted on some individuals, than that by subtle distinctions, invented and resorted to solely to escape such a consequence, long settled and ^{doctrines} ~~fund~~ should be shaken, questioned, conferred or doubted. It is often difficult to resist the influence which a palpable hardship is calculated to exert, but a rigid adherence to fundamental principles at all times, and a stern insensibility to the results which an unwavering enforcement of those principles may occasionally entail are the surest, if not the only means, by which stability and certainty in the administration of the law may be secured. It is for the Legislature by appropriate enactments, and not for the Courts by metaphysical refinements to provide a remedy against the happening of hardships which may result from the consistent application legal principles. Amuth vs. Old Town Bank 35 Me 320. If the decision of this Controversy hinged on relative weight or comparative consequences of the mere hardships involved, the solution would not occasion serious solicitude; for a loss could be born more easily by the plaintiff than by the defendant. To the one, it means a failure to collect a few thousand dollars, to the other, it will probably bring poverty and possibly want. These observations suggested by the line of argument presented at the hearing, and by a careful reading of the testimony, particularly that portion whose admissibility has been challenged, are made at the outset of this judgment to indicate that whilst as individuals we are not insensible to those consequences, we have as judges, no normal or legal right to be influenced by them.

The circumstances which have given rise to this Controversy and which it is necessary for a clear understanding of the question involved to state, are in brief outline as follows: The late Andrew J. Delashmuth was a Comaker of sundry notes for his son, Elias C. Delashmuth. When Andrew J. Delashmuth died on the first day of August 1896, these notes were subsisting obligations for which his estate was liable. By his will dated on the 27th day of