

after the lapse of time between the injury and the date of the writ of summons, two years or more; the defendants relying on the Dominion Railway Act, R.S.C. 1906 ch. 37, secs. 284 (7) and 306.

The learned Chancellor was of opinion, both from the force of judicial decision and from the reading of the Act, that it imposed no time-limit upon an action for injuries sustained by a passenger by reason of the negligence of the company in the safe and proper conduct of his person to its destination. He referred to sec. 2 (31) and sec. 306 (3) of the Act, and to *Roberts v. Great Western R.W. Co.* (1856), 13 U.C.R. 615; *Auger v. Ontario Simcoe and Huron R.W. Co.* (1857), 9 U.C.C.P. 164, 169; *Ryckman v. Hamilton Grimsby and Beamsville Electric R.W. Co.* (1905), 10 O.L.R. 419, 429; *Sayers v. British Columbia Electric R.W. Co.* (1906), 12 B.C.R. 102; *British Columbia R.W. Co. v. Turner* (1914), 49 S.C.R. 470, 489, 499.

Judgment for the plaintiff for \$1,500 and costs.

MIDDLETON, J.

OCTOBER 14TH, 1916.

RE FITZGIBBON.

Will—Construction—Legacies—Identification of Charitable Institution—Deficiency of Assets—Payment in Full of Specific Legacies—Abatement of Legacies Payable out of Residue—Enlargement of Fund to Produce Annuity—Income of Fund Given for Life on Conditions—Refusal of Legatee to Accept—Life Estate Falling into Residuary Estate—Charitable Gift—Perpetual Trust.

Motion by the executors for an order determining questions arising upon the will of Mary Agnes Fitzgibbon, who died on the 17th May, 1915.

E. G. Long, for the executors.

J. A. Paterson, K.C., for the Women's Welcome Hostel.

R. H. Parmenter, for Isabel Morphy.

E. C. Cattanach, for the Official Guardian, representing infants.