

fool, fanatic, and a knave, and to-morrow his libellers sneak into his funeral procession, and the chief magistrate of forty millions of freemen begs the honor of two feet of space at his obsequies. It is the old story—the tax which posthumous fame so often pays for its title—a garret and a crust in life, a mausoleum and statue afterward. What avails it all? We may justly console ourselves with the reflection that we belong to a profession which above all others shapes and fashions the institutions in which we live, and which, in the language of a great statesman, is as ancient as the magistracy, as noble as virtue, as necessary as justice—a profession, I venture to add, which is generous and fraternal above all others, and in which living merit is appreciated in its day, according to its deserts, and by none so quickly and so ungrudgingly as by those who are its professional contemporaries and its competitors in the same field. We have our rivalries—who else has more?—but they seldom produce jealousies. We have our contentions—who else has so many?—but they seldom produce enmities. The old Saxons used to cover their fires on every hearth at the sound of the evening curfew. In like manner, but to a better purpose, we also cover at each nightfall the embers of each day's struggle and strife. We never defer our amnesties till after death, and have less occasion therefore than some others to deal in *post mortem* bronzes and marbles. So much we may say without arrogance of ourselves—so much of our noble profession. No better proof and illustration can be found than in the life just closed—a life clear and clean in its aims—full of busy and useful labors—void, I dare believe, of offence toward God and man, and crowned in its course with that three-fold scriptural blessing—length of days, and riches, and honor.”

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

QUEBEC, October 5, 1882.

DORION, C.J., MONK, RAMSAY, TESSIER, & BABY, JJ.

AYOTTE (plff. below), Appellant, & BOUCHER et al. (defts. below), Respondents.

Succession—Acceptance—Fraud.

The acceptance of a succession by a person who is of age is not binding when such acceptance was the result of fraud.

In the circumstances of this case there was fraud (Dorion, C. J., and Ramsay, J., dissenting.)

The appeal was from a judgment of the Superior Court at Three Rivers, March 16, 1882.

TESSIER, J., rendered the judgment of the Court, which confirmed the judgment of the Court below (See 8 Q.L.R. 327, where the opinion is reported in full).

The CHIEF JUSTICE and RAMSAY, J., dissented. We now give the opinion of Mr. Justice Ramsay.

RAMSAY, J. The question raised by this appeal is as to whether the respondents have accepted the succession of their late father Dr. Boucher. The appellant contends that they have done so impliedly and expressly. First, that after their father's death, they continued to live in their father's house till the death of their mother, that in her lifetime they collected the debts due to their father, used the furniture, animals and money belonging to the succession as if they were their own. Under the evidence I think this is not made out. The children seem only to have done conservatory acts and those of administration, and this for their mother, and it does not seem that they have in any of these transactions taken the quality of heirs. C. C. 646.

Secondly, the appellant pretends that in a deed of cession they took the quality of heirs. This is admitted, but the respondents said that they were induced to do this by the fraudulent machinations of appellant. I don't think this is proved. The notary Gallipeau says they did not know the consequences of the deed, and that appellant did, and it seems likely enough that the appellant wanted them to sign the deed as an act of heirship; but I don't think this is fraud. Ayotte was not obliged to put them on their guard as to the legal consequences of their act, and it nowhere appears that he made any false or incorrect statement as to the facts. All they can say is that they were in error, but error is no ground for setting aside an acceptance of a succession. C. C. 650.

I am therefore to reverse.

Judgment confirmed.

Turcotte & Paquin, for Appellant.

Hould & Grenier, for Respondent.