

were substituted for those prepared in 1874 by Messrs. Riddell & Evans;

Considering that, on the contrary, it is proved that the statements of account of the administration, and of the affairs of the said Estate, prepared by Messrs. Riddell & Evans, are identical with those now produced;

Considering that it is proved that the realisation of the assets of the late Hugh Fraser has been effected in the manner most conducive to the interests of the Estate;

Considering that the complaint made by the said Plaintiff of the fact that the Executors had subscribed for shares in the capital of the Merchants Bank without paying them up, and when there were some at that time in the name of the Estate on which only ten per cent. had been paid up, is unfounded, inasmuch as the said Executors acted as business men would act, in taking stock issued at par, when the shares of the Bank were at a premium;

Considering that the said shares afterwards lost their value by reason of the general depreciation in Bank shares; but that the said Executors cannot be held responsible therefor;

Considering that it is further proved that John Fraser, (who appears to be the real prosecuting party in this cause), did by his protests prevent the said Executors from realising the said Bank shares;

Considering that by the charter creating the Corporation of the Fraser Institute, it was provided that neither the said Institute, nor the Executors or Trustees, could dispose of the Estate of the late Hugh Fraser, so long as the actions to annul the will of the said late Hugh Fraser should remain pending;

Considering that the said John Fraser had at that time instituted an action to annul the said will: which action was rejected only in November, 1874, by judgment of the Privy Council;

Considering, therefore, that neither the said Executors, or Trustees nor the said Institute, could act freely; and that if they have not sooner realised the object for which the said Institute was created, it is owing to the vexatious proceedings (*procedures vexatoires*) of the said John Fraser;

Considering that the said Institute did not suffer loss by reason of the acquisition of the property of Mrs. Phillips, nor by its return;

Considering that the various grievances detailed by the said John Fraser in his deposition are without foundation, and that the irregularities in entries, of which he complains are fully explained by the deposition of Mr. Evans;

Considering that the said Defendant has proved the allegations of its defence; maintains it; and dismisses the complaint of the said Plaintiff *à sa qualité*;

And the Court recommends that the Government of the Province of Quebec, do pay the costs of this cause.

(Signed),

H. J. RAINVILLE,

J. S. C.

In rendering judgment, the Honorable Judge presiding, after stating the pretensions on both sides, made the following remarks: He said:

At the time of the *enquête*, the Plaintiff after having detailed his pretensions in the affidavit *c/* John Fraser, (who is the instigator of the present proceeding), desired that the Court should order a complete audit of all the accounts of the Fraser Institute. I refused this demand, because neither the trustees nor the executors were parties in this cause, and because the