

the pretensions of the devisee litigated in this cause, and of his capacity to receive the bequest in his favour when his receiving power became legally effective.

Lord Justice James, parlant au nom du tribunal, observe, en outre, p. 90 :

But beyond that, the law of England having from the earliest period, from the time when testamentary dispositions were introduced, given absolute power to a testator to deal as he liked with his property, wholly regardless of any moral or natural claims upon him, the English Legislature introduced that law into lower Canada.

Puis, référant à la loi canadienne de 1801, le tribunal ajoute :

In this state of things the Canadian Legislature, having before it the English law, passed an Act which professed to explain as well as to amend the English Act ; and it proceeds to recite that doubts and difficulties had arisen with respect to the construction of the English Act. These doubts and difficulties it was perfectly within the competency of the Canadian Legislature to deal with as they thought fit, being a mere matter of disposition of property in the colony, not affecting any Imperial policy. They recite the difficulties, and then they go on to declare and enact that it shall be lawful for a testator to give to any person or persons whomsoever, with the single exception of gifts in mortmain.....

Indeed it was said that such a principle is not to be applied to this case ; that the attempt to make this gift is such a violation of law on the part of the testator, that it is to be struck out just as if it were a gift *pro turpi causâ* or *contra bonos mores*. Their Lordships are unable to take that view. Nobody surely can suppose that it is crime in a man to express by his will his wishes as to what should be the devolution of his property after his death, or that it should go in a particular direction, — even although that direction should be in favour of an adulterine bastard, leaving it open to the law to say whether the wish shall or shall not take effect. There is nothing immoral, nothing wrong in the expression of such a wish, nothing to prevent the ordinary application of the ordinary principles of