nstituted an action lest and devise made ound of its being in tion the Defendants

ing off the legacies the sale of a portion no other asset avail-

at time paid legacies ceeding with further apon the Merchants' ting the sale of any as Executors, on the further payment of on of the charitable sets; until after the d by the heirs.

te of the Founder, te a nexed accounts. as dismissed in the . Justice Beaudry. ed to the Court of ourt, judgment was nt of the Superior of the Institute.

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ent by the Judicial

allowed to appeal to

ps on the 26th Noqueen's Bench, and During the session of the Quebec Legislature held in the autumn of the year 1870, and while this litigation was pending, the Executors and Trustees procured an Act of that Legislature incorporating the Fraser Institute. This Act appears in the Statutes of that Provin e as 34th Vic., Chap. 50, intituled "An Act to incorporate the Fraser Institute."

By this Act the first Board of Governors of the Institute was appointed, namely :—

THE HONORABLE JOHN JOSEPH CALDWELL ABBOTT,
"FREDERICK WILLIAM TORRANCE,

THOMAS WORKMAN, Esq., PETER REDPATH, Esq.,

ALEXANDER MOLSON, Esq.

And in conformity with the Will, Mr. Abbott was appointed the first President, to retain that office during his life.

Also pending the litigation, the heirs caused to be served a series of notarial protests upon the Trustees and Executors, and other parties concerned, namely:—

On the 30th day of June, 1870, a notification and protest to the Merchants Bank of Canada, already referred to, prohibiting it from permitting any more of the stock to be sold, or any dividends to be drawn.

On the 25th June, 1873, a declaration, notification and protest upon the Executors and Trustees, in respect of the farm stock and crops of the Founder, upon the King's Post Farm.

On the 26th January, 1874, a notification and protest upon Edward Moore and J. H. Menzies, informing them of the intention of the heirs to take possession of the St. Sacrament Street stores, and to claim payment of the rental therein mentioned.

In consequence of the first of these protests, the Bank declined to pay to the Executors the dividends on the stock; but upon the increase of their capital in 1872, it allowed the dividends to be appropriated to the payment of the premium and of the first call upon the new shares to which the Estate then became entitled. And the dividends then accroed were applied to that object.

After the greater part of the stock in trade, &c., had been disposed of, the management of the Estate was left in the hands of Mr. Menzies, the Executors and Trustees supervising his acts, but personally taking no part in the reception, custody or disbursement of the funds. He received the same salary previously allowed him by Mr. Fraser, for about a year, until the stock in trade had been realized; and upon the adjustment of the accounts hereinafter mentioned, the remuneration for his services after the first year was fixed with his consent at a sum equal to a commission of five per cent upon the actual receipts of revenue; at which rate it has remained to the present time; no charge being made for office rent or for the custody or keeping of the books.

Upon the promulgation of the decision of the Privy Council, the Executors and Trustees caused the accounts of the Estate to be made up in detail, shewing the receipts and disbursements of the Estate from the death of Mr. Fraser to the 30th day of June, 1874. And under their direc-