

BOWEN, JUSTICE,

In this case which was argued in July last, and re-heard in the present term, we are now to pronounce judgment. It is a case of very considerable importance, whether viewed in regard to the large amount of property at stake, or, to the somewhat novel and intricate questions which it gives rise to.

The suit is technically entitled, an action *en nullité de legs*; but for the better understanding of the case, it may be as well here to premise briefly some of the facts upon which the action is based, such as disclosed in the Plaintiff's declaration.

The late Major General Gabriel Christie, being seized and possessed of divers valuable lands, tenements and hereditaments in the Province of Lower Canada, and more particularly of the Fiefs and Seigniories of Repentigny, Lacole, Noyan, Sabrevois, Bleury and Delery, in the district of Montreal, made his last will and testament on the 13th May 1789, and died without revoking the same or any part thereof on the 20th January 1799.

It is averred that at the time of making this will and at the period of his decease, Napier Christie Burton, the original Plaintiff in the suit, was the only son begotten in lawful marriage of the said Gabriel Christie with Sarah Christie, his wife; that there were likewise two daughters lawful issue of the said Gabriel and Sarah, namely Catherine Christie and Sarah Christie, both of whom were living at the time of the institution of this suit; that the said Gabriel Christie, in and by his last will and testament, bearing date the 13th May 1789, after ordering the payment of certain legacies therein mentioned, did give and bequeath the rest, residue and remainder of his personal estate, goods, chattels and effects whatsoever and wheresoever unto his eldest son Napier Christie Burton, the Plaintiff, and as to all and every his manors, messuages, lands, tenements, hereditaments and real estate whatsoever situate in Great Britain and North America, with the exception of his mill, lands and tenements at Chambly, which he devised in trust to be sold, he did give and bequeath the same to the use of the