

On the 15th June, 1870, the heirs of Mr. Fraser instituted an action against the Executors and Trustees, to set aside the bequest and devise made for the establishment of the Fraser Institute, on the ground of its being in contravention of the law of mort-main, in which action the Defendants appeared and pleaded.

In the meantime, the Executors commenced paying off the legacies bequeathed by the Will, by means of the proceeds of the sale of a portion of the shares of Merchants' Bank Stock, there being no other asset available for the purpose.

About the 30th day of June, 1870, having up to that time paid legacies to the extent of \$8,100.00, they were prevented from proceeding with further payments by a notice and protest served upon them and upon the Merchants' Bank, by the heirs, prohibiting the Bank from permitting the sale of any more of its shares, and from paying any dividends to the Executors, on the ground of the illegality of the Will. Consequently no further payment of legacies took place, with the exception of a small portion of the charitable legacies, which were subsequently paid out of other assets; until after the final decision in the Privy Council, of the suit instituted by the heirs.

The details of the realization of the personal Estate of the Founder, and of the disposition of its proceeds, are to be found in the annexed accounts.

On the 30th March, 1871, the action of the heirs was dismissed in the Superior Court, by a judgment rendered by the Hon. Mr. Justice Beaudry.

From this judgment the heirs immediately appealed to the Court of Queen's Bench; and after two hearings before that Court, judgment was rendered on the 24th June, 1873, reversing the judgment of the Superior Court, and annulling the bequest for the establishment of the Institute.

The Judges present were:—

The Honorable Mr. Chief Justice Duval,	
" " Mr. Justice Drummond,	
" " " " Badgley,	
" " " " Monk,	
" " " " Taschereau.	

The Honorable Mr. Justice Duval and the Honorable Mr. Justice Badgley dissented from this judgment.

The Executors and Trustees thereupon moved to be allowed to appeal to Her Majesty in Her Privy Council, which motion was granted, and the appeal duly instituted.

In June, 1874, Mr. Abbott proceeded to England to take charge of the proceedings before the Privy Council, and succeeded in bringing the case to a hearing in August of that year; when after an elaborate argument, lasting for three days, the case was taken under advisement by the Judicial Committee, composed of the following Judges:—

LORD JUSTICE JAMES,
SIR BARNES PEACOCK,
SIR MONTAGUE SMITH,
SIR ROBERT P. COLLIER.

And judgment was finally rendered by their Lordships on the 26th November, 1874, reversing the judgment of the Court of Queen's Bench, and holding the bequest valid.