

formerly of Montreal, and now of the City of New York, in the State of New York one of the United States of America, Gentleman; and Elizabeth Fraser of the City of Montreal, Spinster, in their capacity of heirs at law of the late Hugh Fraser in his lifetime of the City of Montreal, Merchant.

(Plaintiffs in the Court below,)

and

Appellants.

and

The Honourable John J. C. Abbott of the City and District of Montreal, Esquire, Queen's Counsel, and John Cowan of the same place, Esquire, Merchant in their capacity of Executors of the last will and Testament of the said late Hugh Fraser, the said Honourable J. J. C. Abbott also in his capacity of universal residuary fiduciary legatee and Trustee, the Honourable Frederick Torrance, one of the Judges of the Superior Court of Lower Canada, residing in the City of Montreal aforesaid, in the capacity of universal residuary fiduciary legatee and Trustee, jointly with the said Honourable J. J. C. Abbott.

(Defendants in the Court below,)

Respondents.

The Court of our Lady the Queen now here, having heard the Appellants and Respondents by their counsel respectively, examined as well the record and proceedings had in the Court below, as the reasons of Appeal fyled by the Appellants, and the answers thereto and mature deliberation on the whole being had:

CONSIDERING.

1st.—That in the Eighteenth century the leading European Nations adopted a policy which tended to restrain the excessive accumulation of real Estate held in Mortmain, and by Corporate bodies, whether ecclesiastical or lay :—as evinced in England, by the passing of the Act, commonly known as the statute of Mortmain, in the ninth year of the reign of his late Majesty, King George the second, [Chapter 36], and in France by several laws