Mar. 23.

BIZARRE BEQUESTS TO BE OVERRULED BY LEGISLATIVE ACT

University of Toronto to Benefit as Charles Millar Intended

MONEYS KEPT IN CANADA

Claim of United States Resident Halted by Special Act

To get rid of clouds of uncertainty over the strange will of the late Charles Millar, Toronto barrister, and thus keep a half-million-dollar estate within Canada, Hon. William H. Price, K.C., Attorney-General of Ontario, yesterday took action in the Ontario Legislature, on the ground of public policy, to escheat the residue of the estate to his Majesty the King, in the right of the Province of Ontario, for the benefit of the University of Toronto.

The preamble of the bill introduced by Mr. Price sets forth that: "Whereas it is expressed in the said will that 'this will is necessarily uncommon and capricious because I have no dependents or near relatives, and no duty rests upon me to leave any property at my death, and what I do leave is proof of my folly in gathering and retaining more than I required in my lifetime';

"And whereas, in view of the above statement in the said will, and the disposition made of the rest and residue of the said property by Clause 9 of the said will as above, it is deemed advisable on the ground of public policy to escheat the said rest and residue of the said property to his Majesty the King, in the right of the Province of Ontario, to be administered in the manner and for the purposes as herein set out."

It was explained officially to The Globe last evening that it is not the intention of the Attorney-General to create a precedent, because "there never was such a will executed before like that of the late Charles Millar."

The will was made June 7, 1921, naming the Toronto General Trusts Corporation, the National Trust Company and George Roy Sproat, solicitor, executors and trustees under the will. Specific bequests were made to Mr. Justice W. E. Raney, A. M. Orpen, Rev. Dr. S. D. Chown and Protestant ministers of the gospel, and others, of stock in the O'Keefe Brewery or the Ontario Jockey Club. Friends of Mr. Millar stated last night that the will was drawn when he felt that his investments "were going wrong because of the opposition of the Churches to race-tracks and the liquor traffic."

The Globe was also informed last night that on the Sunday afternoon of his death in his office he had met an intimate acquaintance and had told him he had made what might be described as a "crazy quilt" will, and was going to change it. His death, it was claimed, intervened. By a former will he had willed his estate to the University of Toronto, of which he was a graduate and a gold medallist. It was admitted he had consulted the Chief Justice of Ontario, Sir William Mulock, Chancellor of the university, and Sir Robert Falconer regarding its terms.

Mr. Millar's mother, to whom he was devoted, had died, and in a letter to a friend he stated that "he now had no known relatives. If he had any relatives," he said, "they were strangers to him."

In time there came to the trustees' notice that one Nancy Vance Millar, aged 78 years, living in California, was a half-aunt and would make claim to share in the estate. Her death also came before the issue was decided. Apparently this woman consulted one James A. Noel, from whom she had been taking advice in real estate and other business matters. The said Nancy Vance Millar, it is now claimed, executed a contingent agreement providing for a division of any benefit accruing from the estate of Charles Millar with Noel and certain parties, "all said to have been strangers to Charles Millar."

Action at Osgoode Hall.

Through an action entered at Osgoode Hall, Noel is now said to be seeking specific performance of the alleged agreement entered into between himself and Nancy Vance Millar. Noel was in Toronto last week, and appeared for special examination preparatory to bringing the action to trial. It is claimed that if the legislation introduced by the Attorney-General yesterday respecting the estate of Charles Millar is passed, and goes on the statute books, this action will fail.

Clause 9 of the will of Charles Millar is claimed by the Attorney-General to be against public policy. Under this clause the residue of the estate might go to some woman who might afterward leave Canada, and some other country would benefit, it was stated last night.

This clause says: "All the rest and residue of my property, wheresoever situate, I give, devise and bequeath unto my executors and trustees, to convert into money as they deem advisable, and invest all the money until the expiration of nine years from my death, and then call in and convert it all into money and at the expiration of ten years from my death to give it and its accumulations to the mother who has since my death given birth in Toronto to the greatest number of children as shown by the registration under the Vital Statistics Act. If one or more mothers have equal highest number of registrations under the said act, to divide the said moneys and accumulations equally between them."

Half-Million Estate.

The original value of the whole estate was about $400,000, but the residue is now said to be valued alone at $500,000, owing to the improved business condition of the O'Keefe Breweries.

Lawyers last night looked in vain for a parallel case. The only analogy that might be drawn, but not very similar, was in connection with the present Woolworth Building property at Queen and Yonge Streets, and the Mercer Reformatory property on King Street West, part of the estate of Andrew Mercer.

In arranging to have the legislation provide for the residue of the Charles Millar estate go to the University of Toronto, it is claimed, the Attorney-General is really carrying out the definite wishes of the testator as expressed in a previous will. This is why, The Globe was informed, no provision is made in the will for a part to Queen's University at Kingston or Western University at London. This action by the Attorney-General recognizes all classes of people without regard to race or creed.

"Charles Millar loved his alma mater," a friend of the barrister stated last night to The Globe.

By the legislation introduced yesterday, the present trustees under the will of Charles Millar will continue to administer and manage all the estate for a period of five years. There is, however, provision in the act for the termination of the administration of the estate at any time.

On the termination of the administration by the trustees, all the property remaining in their hands is to be transferred to the Governors of the University of Toronto.

During the five-year term of the trustees, the income is to be paid to the Governors of the University of Toronto for the purpose of providing prizes, scholarships and fellowships, or assisting any student in any course of study at the university. After the five years the proceeds are to be used for the same purpose, but the principal shall be kept intact.

The will was a very peculiar one, leaving disposition of the estate to unknown persons, said Mr. Price, in introducing the bill. It was the opinion among lawyers that the will was not valid. In a previous will Mr. Millar had left his money to the University of Toronto for scholarships, and to assist students who would need help.

Now it develops that there are no heirs, Colonel Price said. A woman in California claimed to be a relative, but she had died. The estate totalled $500,000, said Colonel Price, and, knowing Mr. Millar's views, the Government thought there might be an escheat.

It is stated in Clause 2 of the bill that the estate bequeathed to the mother who in the ten years following his death has given birth to the greatest number of children as shown by vital statistics registration is to be escheated. Apparently the estate which may already have been distributed under the terms of the will remains undisturbed.