Shepley, for the plaintiff and lessee.

J. Hoskin, Q.C., for the infant defendant.

E. B. Brown, for the defendants who disputed the lease.

Ferguson, J.] [Sept. 19.

RE LEWIS, JACKSON v. SCOTT.

Disputed will case—Trial by jury—Heir-at-law—Exclusive jurisdiction of Chancery—Character of issues.

The heir-at-law, in an action where he disputes the will, has not now an absolute right to a trial by jury in this Province.

An action to establish a will removed from a Surrogate Court to the Court of Chancery is one over which the Court of Chancery had, at the time of the passing of the O. J. A., exclusive jurisdiction, and a motion to the Court to have the issues in such an action tried by a jury is included in the practice mentioned in sec. 45, O. J. A.

Issues raised on the following pleas, viz.: that the will was not executed in due form, that the testator was not of sound mind, undue influence, fraud, that the testator was labouring under certain delusions, were *held* not of such a character that they should be sent to be tried by a jury.

W. H. P. Clement, for the defendant.

Holman, for the plaintiff.

Mr. Dalton, Q.C.] [October 2.

BRYCE, MCMURRICH & Co. v. SALT.

Judgment—Indian—C. S. C. ch. 9—Indian Act, 1880 (D.).

An order was granted under Rule 80 for judgment against an Indian living with his tribe on their reserve, and not being the holder of any real or personal property outside the reserve.

Held, that since the repeal of C. S. C. ch. 9, there is nothing to prevent an Indian suing and being sued, although, by the Indian Act of 1880, sec. 77 (D.), the judgment will not bind any property of the Indian except that described in sec. 75.

Urquhart, for the plaintiffs.

Holman, for the defendant.

CORRESPONDENCE.

ULTRA VIRES.

To the Editor of the LAW JOURNAL:

SIR,— Of necessity there have arisen within the short period of eighteen years a considerable number of very important constitutional questions affecting the welfare and good government of our young Dominion. Not only have there been many decisions of the Courts of final resort both in Canada and England, interpreting different parts of our constitution, but there have been several books written—some very learned and some not remarkably so—in which more or less light has been thrown on the difficult questions involved.

The motto on the title page of the "Letters on the Federal Constitution by the Hon. Mr. Justice T. J. J. Loranger," *Si vis pacem, para bellum*," taken along with the tone which one finds pervading the whole, sufficiently indicates the standpoint from which he has written, viz.: that of a French-Canadian extremely zealous for his country, which is not Canada, but Quebec, and alarmed for the permanence of "*nos institutions, notre langue, et nos lois.*" Hence his conclusions are in some respects rather consonant with what he, in common with most Liberals, thinks ought to be the constitution on this or that point than with the result of a calm judical analysis of the language of the British North America Act itself.

A more pretentious work has appeared somewhat later, whose author, on the other hand, exhibits in every page an overweening conceit and in many a too manifest desire to cut down the powers of the local legislatures. Look at the motto on *his* title page: "Of course, recognizing as I do that the bishop possesses a discretion in this matter, I most fully admit that he is vastly more capable of exercising it well than I am. But the way he does exercise it is subject to criticism, even by those less competent than himself, in the same way as the opinion and sentences of this Court may and ought to be and are criticised by laymen." *Per* Bramwell, L.J., in *Reg. v. Bishop of Oxford*, L. R. 4 Q.B.D., 556, in Court of Appeal of England." It serves to indicate the spirit in which the author has approached the consideration of the points involved all through the work. Without having one tenth part of Lord Bramwell's attainments as a jurist or any fraction of Lord Bramwell's modesty and deference, he undertakes to sit in appeal from, to ridicule and then to try and cut up the judgments and decisions of the highest authorities, both in Canada and England, always excepting