

NOVA SCOTIA.

SUPREME COURT.

LONGLEY, J., at Sydney.

MAY 7TH, 1909.

ANGLE v. MUSGRAVE.

*Land—Title—Crown Grant—Adverse Possession—Evidence—Will—Rents and Profits—Account.*

N. A. McMillan, for plaintiff.

B. Archibald, for defendant.

LONGLEY, J.:—The plaintiff produces a paper title from the Crown, through several intervening parties.

1. Grant from Crown to Thomas Montcreef, June, 1786.
2. Grant from Crown to Edward Hickey, June, 1786.
3. Deed from Catherine Quinlan, heir of Hickey to Andrew Sellon, June 20th, 1817.
4. Samuel Sellon to Matthew Bradley, May 21st, 1860.
5. Will Matthew Bradley to George J. Bradley, August 21st, 1888.
6. Will George J. Bradley to plaintiff, April 23rd, 1907.

It is in evidence that Matthew Bradley was exercising ownership over the lot of land in dispute, a house property in Sydney, as late as 1888, when he died. The chain of plaintiff's title is perfect so far as I can see, except that he has simply put in evidence a certified copy of the will of George J. Bradley to plaintiff, executed in Montreal under the hand and seal of two notaries, and certified by the Registrar. I think I am able to receive this will under our Evidence Act. The only question I had was whether it should have been filed and proved in the Probate Court for Cape Breton County. The plaintiff contends that this is not necessary in the case of real estate which descends to the heir.

The defendant set up adverse possession, but totally failed in this. The evidence shews that as late as May 11th, 1901, defendant was negotiating with George J. Bradley for its purchase.

The facts upon which Musgrave relies in his defence are that Matthew Bradley owned three adjoining lots in Sydney, with houses upon them. One lot he bequeathed to his brother George J. Bradley, the one in question, the other to his sister Jane, and the third to his other sister, Mrs. Musgrave, wife of defendant. The executors of Matthew Bradley's will were