

name. It was contended, on behalf of the defendant, that the bankruptcy absolved the defendant from liability upon the shares, and cited in support of his argument 'Lindley on Partnership,' fourth edition, p. 1,181; *Ex parte Pickering*, in *re Pickering*, 38 Law J. Rep. Bankr. 1; L. R. 4 Chanc. Div. 61, and *In re The Mercantile Mutual Marine Association*, 53 Law J. Rep. Chanc. 593; L. R. 25 Chanc. Div. 415. On behalf of the plaintiff it was contended that the defendant should have made an application to the Court to rectify the register after his discharge, and that, being discharged from his debts at the time of the reconveyance, the bankruptcy was no bar to the claim. The learned judge held that the debt was one provable by the company in the bankruptcy, and gave judgment for the defendant, with costs.—*Law Journal* (London).

COURT OF QUEEN'S BENCH.

QUEBEC, Feb. 5, 1886.

Before MONK, RAMSAY, TESSIER, CROSS,
BABY, JJ.

TACHÉ ET AL. (defendants below), Appel-
lants, and TACHÉ (plaintiff below),
Respondent.

Community—C.C. 1304—Construction of
Codicil.

During the community existing between Sir E. P. Taché and Lady Taché, a considerable sum was expended from the community on houses, propres of the wife, which came to her from the succession of her father and mother. By Sir E. P. Taché's will Lady Taché was made universal legatee en usufruit, and his two sons universal legatees en propriété. After the death of Sir E. P. Taché, an inventory of the community was made, and the amount expended on the propres was established. Lady Taché, by will constituted her sons her universal legatees, and left special legacies to her five daughters, on condition that they should renounce to their share in the succession of the grand parents. Fourteen years later, Lady Taché made a codicil by which she left her economies (meaning her economies after the

death of her husband) "après le règlement des dettes de succession" to be divided equally between her daughters.

- Held:—1. That the sum expended from the monies of the community on the propres of the wife was, under C.C. 1304, a charge on the wife's share of the community, but the sons being made universal legatees by the will, the effect was to make them creditors and debtors of the sum in question, and the obligation was extinguished by confusion.
2. That the codicil did not revive the claim of the community against the wife's share for the expenditure on the propres. In referring to the "règlement des dettes de succession" in the codicil, the wife meant to include only such debts as she had contracted personally.

Held (by Ramsay and Baby, JJ., diss.):—1. That the bequest by the codicil was of certain economies made by the testatrix, and that as she only possessed her share of the community formerly existing between her and her husband less the recompenses with which such share was chargeable by law, no portion of such recompenses could be an economy of the testatrix.

2. That there was no confusion of the qualities of debtor and creditor in the persons of the sons as regards the amount in question, for there was no debt and no credit to be confused.

RAMSAY, J. (diss).—M. Morency and his wife were married under the régime de la communauté, and by their contract of marriage there was a stipulation of ameublement de tous leurs propres.

Their daughter, the late Lady Taché, at the time of her death, was possessed, as sole heir of her mother, of one half of the property forming the communauté formerly existing between her father and mother, and of the other half in usufruct under the will of her late father, the property of the father's share being substituted in favour of the children of Lady Taché. Three lots of land in the City of Quebec, which indirectly give rise to this litigation, formed part of the bequest and succession referred to. Lady Taché was also in community with her late husband, by whose will she was instituted