such tutor. *John Brown* being at that time a bankrupt, was unable to liquidate this judgment, and proceedings were taken and execution obtained against his real estate, which was brought to sale by the sheriff of the district of *Montreal*, and the proceeds brought into Court for distribution among the creditors.

Pending these proceedings, and before any further step was taken, *John Brown* died in foreign parts, and one *Archibald Ferguson* having been appointed tutor or guardian of the Respondent, *David Brown*, put in on his behalf certain "*moyens*" or reasons of opposition against the fund in Court, out of which he prayed that the above legacy of £2,000, given by the Will of Mrs. *Brown* to the Respondent, might be paid, claiming the same by right of the "*hypothèque*" or mortgage of the 17th of *April* 1812, being the before mentioned marriage-contract of the Respondent's father and Mrs. *Smith*.

To these "*moyens*" or reasons of opposition, the Appellant answered by pleading, first, a general demurrer, second, a denial of the facts alledged by the Respondent, and, thirdly, by a peremptory exception or a plea in bar, setting forth that the Respondent ought not to have or claim any "*droit d'hypothèque*" on the lands and tenements of *John Brown*, from the said 17th of *April* 1812, nor any right to be collocated in the distribution of the monies of the said *John Brown*: Because, by the Will under which the Respondent claimed, *John Brown* was instituted and named the universal legatee of all the moveable and immoveable property of what nature or description soever, and without any exception or reserve belonging to the testatrix, which bequest was accepted by *John Brown*, who, by means thereof, entered into possession of all the property so bequeathed: and further, because the legacy of £2,000 made by the testatrix in favour of the Respondent, was no more than a particular legacy, ("*legs particulier*,") without any *hypo-*