

will be read to the testator by one of the notaries, in the presence of the other, and signed by the testator in the presence of both notaries.

The fourth and principal defence to the action was that the testatrix, at the date of the will and for more than a year before, was of unsound mind, and incapable of disposing by will. The chief facts alleged in support of this plea were to the following effect:—That while in possession of a considerable fortune, the testatrix lived for some years before her death in abject poverty, and in a semi-savage condition; and that persons connected with the plaintiff's institution had taken advantage of her mental weakness to induce her to make the will in question. Fifty-two witnesses were examined on the one side and on the other, and it appeared that the testatrix with two sisters Anne and Jane, lived together in a house in Montreal which they inherited from their father. After the death of their two brothers, they had no relations other than the descendants of their deceased brothers. Anne, one of the sisters, in 1855, brought an action to annul the marriage of her deceased brother William, as having been contracted *in extremis*. This produced ill feeling, and disposed the sisters to bequeath their estate to charitable objects rather than to their relations.

Jane Scott died first, leaving her property to her two sisters, with an expression of her wish that it should be devised by them to charitable institutions. Anne Scott died next, leaving the usufruct of her estate to her surviving sister, and the property to the Trafalgar Institute. Barbara continued to live in the same house, and to administer the property. Witnesses stated that the appearance of things in the house was very wretched; that testatrix was usually poorly dressed, and sometimes appeared on the gallery in rear of the house clad only in a chemise. On some occasions she was seen in a semi-nude state by workmen and others in the house. But while there was evidence of unusual eccentricity, the deceased had displayed considerable intelligence in the management of her affairs. The evidence for the defendants established that she was of a miserly disposition, and the promptings of avarice might account for the wretched condition in which she lived. It was also common for persons of her age to be careless of their personal appearance. Under the influence of excitement she might seem at times to be tem-

porarily deprived of reason; but such a state did not last for any time, and her ordinary management of her affairs did not disclose any sign of insanity. There was also the evidence of the notaries and others who stated that she had a perfect understanding of the clauses of the will, and that her faculties were extremely clear. Dr. Proudfoot stated that she was exceedingly healthy until she died, and she boasted that she had never taken a bottle of medicine in her life. She continued to manage her property, and lease her houses, and the notary employed stated that she was perfectly capable of managing her affairs. The bequest to McGill University was the fulfilment of a long cherished intention. The charge of undue influence had entirely failed.

Action dismissed.

Trenholme & Taylor for the plaintiff.

Doutre & Joseph for defendants, Scott.

Archibald for the Trafalgar Institute.

SUPERIOR COURT.

MONTREAL, October 31, 1882.

Before TORRANCE, J.

HARRIS V. ALMOUR.

Prescription—Foreign Judgment.

A judgment obtained in Nova Scotia (anterior to 40 Vic. Cap. 14, Que.) had not the effect of interrupting prescription of a promissory note.

The demand was in three counts: 1st, A judgment of a Court in the Province of Nova Scotia; 2nd, Promissory note; 3rd, Assumpsit.

The plea was one of prescription of five years, the note bearing date 11 February, 1875, payable in 90 days, and the action was instituted on the 3rd April, 1882.

PER CURIAM. I am with the defendant on the prescription. The judgment was a foreign judgment, and did not interrupt prescription. The judgment is not covered by C. S. L. C. cap. 90, and 40 Vic. cap. 14 of Quebec is posterior to the note under consideration.

Action dismissed.

Mcmaster, Hutchinson, & Guerin for plaintiff.

Pagnuolo & St. Jean for defendant.