

LUNATIC—PROMISSORY NOTE PAYABLE BY INSTALMENTS GIVEN BY SANE PERSON SUBSEQUENTLY BECOMING LUNATIC IN SATISFACTION OF A MORAL OBLIGATION—PAYMENT OF UNPAID INSTALMENTS.

In re Whitaker, 42 Chy.D., 119, reveals a somewhat curious and unusual state of facts. A gentleman of large estate made his will in 1878, whereby he gave all his real and personal estate, which was worth £400,000, to Stephen Whitaker. Shortly after making this will, the testator gave it to his agent, with whom it remained until August, 1885, when he took it away, saying he wished to alter it. On 10th October, 1885, he was seized with an attack of *angina pectoris*, and died on 11th October. After his death, with the will of 1878 was found a second will unexecuted, entirely in the testator's writing but bearing no date except 1885, whereby he gave all his estate to one Holden. After his seizure and after he had rallied slightly, the testator told his medical attendant that he had a little business he wished to transact, but the doctor advised him to wait till the morning, and it was believed that the business he referred to was the execution of the unsigned will. After the testator's death Whitaker saw Holden, and in the presence of his own solicitor told him of the existence of the unsigned will, and that he intended to give Holden some substantial benefit. He subsequently sent him a promissory note for £50,000, payable by instalments. After £15,000 had been paid on account of the note, Whitaker became lunatic, and this was an application for the payment of the balance of the note out of the lunatic's estate. The Court of Appeal (Cotton and Lindley, L.JJ.) were agreed that although the promissory note constituted no legal obligation against the lunatic's estate, and therefore that the holder was not a creditor, yet that it constituted a good moral obligation, which the Court in its discretion could authorize to be paid. They, however, held, that the application should have been made by the committee, and that he must be joined as a co-petitioner, and that the wife of the lunatic must consent—which being done, the payment was sanctioned.

Correspondence.

POWER OF DISALLOWANCE.

To the Editor of THE CANADA LAW JOURNAL:

DEAR SIR,—In what you say in your last number of the great usefulness and value of Dr. Bourinot's lectures I perfectly agree; they well deserve to be made a text-book on the subjects to which they relate, and ought to be in the hands of every student of the profession of the law, and, indeed, of every citizen who wishes to know his rights and duties as such, and the admitted lawyer will find it worth while to have them at hand for reference. They state very clearly the constitutional law on non-doubtful points, and on doubtful ones they offer comments and suggestions wisely and lucidly thought out, and aidful towards their solution. I can hardly think you right in supposing that Dr. Bourinot favours the doctrine that the power of disallowance of Provincial Acts should be exercised only in cases where the powers of the provincial legislature are exceeded, though I agree that the power in question should be exercised with the utmost caution and regard for provincial rights. I observed in a late number of *The Week* something like