her last will and testament in writing, naming petitioners her executors. The executors produce affidavits of the Rev. H. Roe and A. C. Scarth as to its execution and ask for probate. The Rev. H. Roe testifies that he wrote the paper produced as the last will of Mrs. Mack, at her request, in her presence and at her dictation as had for her last will and testament. That in his presence and that of the Rev. Mr. Scarth, she declared said paper to be her last will and testament, and attempted to sign the same, making her mark the capital "E" at the bottom of the will. That the signatures "Henry Roe" and "A. Campbell Scarth" as attesting witnesses, are, respectively, in their handwriting. That they did not *then* sign the will as attesting witnesses, owing solely to the impression that the failure of Mrs. Mack to write her signature in full rendered it null, and that it was on being informed that this was not necessary that they afterwards signed it. That the cause of her not completing her signature was not any change of intention with regard to the disposition of her property, but from physical weakness.

The sole question that comes up for me to consider, on the present application, is this: Have the requisite formalities been complied with to authorize the granting of probate prayed for in the said petition? It is well that the attention of the public, both lay and clerical, should be called to this point, and it is perhaps more necessary that clergymen should understand the rules of law affecting the making of wills under the English form, as, from their profession, they are often required to attend at the bedside of the dying, and are called upon to assist them in making final disposition of their property, when it is impossible to obtain professional assistance.

Prior to the Civil Code coming into force, 1st August, 1866, with regard to wills made in the English form, the rules applicable in England in 1774 prevailed, which required three witnesses, who, however, need not all have been present or signed at the same time, but must have signed at the request of the testator. They must have been subjects of Her Majesty and competent to give evidence, and there were certain disqualifications from interest, which it is now unnecessary to refer to, but which, as they now exist, are defined in the Civil Code, Art. 853: "In wills in the last mentioned form (see the English form), legacies made to any of the witnesses, or to the husband of any such witness (in the first degree) are void, but do not annul the other provisions of the will." The Codifiers reported desirable changes in the law (which were adopted), in order to make our law conform to the then recent legislation in England. This was done and we have our Code Article 851, which enacts that wills made in the form derived from the laws of England (whether they affect moveable or immoveable property), must be in writing and signed at the end with the signature or mark of the testator, made by himself or another person for him, in his presence and under his express direction, (which signature is then or subsequently acknowledged by the testator as having been subscribed by him to his will then produced, in presence of at least two competent witnesses together, who attest and sign the will immediately, in presence of the testator and at his request)"; and Article 855 C.C. declares that the formalities must be observed on pain of nullity. The same is declared by the Code Napoléon, Art. 1001. For an interesting case see *Mignault* v. *Malo*, (14 L.C.J. 141, and 16 L.C.J. 288), which went through all our courts and was finally referred to the Privy Council. Their Lordships discussed the whole question as to the law then affecting wills made in English form and the law relating to the probate of wills. The recent legislation referred to by the Codifiers of Ontario consisted of Imperial Statutes of Will. 4 & 1 Vic. Cap. 26 which, amongst other things, enact: "And be it further enacted that no will shall be valid, unless it be in writing and executed in manner thereinafter mentioned (that is to say), it shall be signed at the foot or end thereof by the testator or by some other person in his presence and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and such witnesses shall attest and shall subscribe the will in the