

paid them, in priority to the debenture holders of Class B; but Romer, J., adhered to his former decision that the claim could not be sustained, as the overdraft had been made without any bargain for security.

PLEADING—WILL—ACTION TO SET ASIDE WILL ON GROUND OF INSANITY OF TESTATOR—SUFFICIENCY OF ALLEGATIONS IN LAW.

Hope v. Campbell (1899) A. C. 1, was an appeal from the Scotch Court of Session. The question involved was one simply of pleading. The action was brought to set aside the will of a deceased person on the ground of the mental incompetency of the testator. The plaintiffs charged in their pleadings that the testator was "subject to insane delusions," and that "he believed that he had a special and imperative duty to further the cause of total abstinence and to oppose the Church of Rome by devoting his pecuniary resources to these objects, in consequence of commands which he conceived he had received from the Deity by direct communications on various occasions." The pleadings further alleged that these insane delusions dominated his mind and overmastered his judgment to such an extent as to render him incapable of making a reasonable and proper settlement of his means and estate, or of taking a rational view of the matters to be considered in making a will. These allegations were considered by the Court of Session not to make out any case for trial, and the pleading was consequently held bad for irrelevancy. The House of Lords (Lords Watson, Shand, and Davey), however, held that this decision was erroneous, and that the pleading was sufficient. Lord Davey dissented. It was conceded by all of their Lordships that, according to the law of Scotland, the same strictness of construction is not to be applied to a pleading as was formerly customary under the English law in regard to demurrers, but the case may, nevertheless, be regarded as establishing that such allegations would be sufficient in pleadings, where the present English system of law prevails. Lord Davey considered that the allegations amounted to no more than an averment that the testator conscientiously believed that the Divine Spirit spoke to him through his conscience, and his action was directed by what he conceived to be the Divine command so conveyed. He very justly adds: "You may call this an insane delusion, if you will; but it is a delusion (if it be one) which has been shared by the