

After the death of the testator's wife, when he proposed to make another will, he stated that he intended leaving plaintiff a reasonable allowance, as she had worked for him since she was 12 years old. . . .

The testator told Alexander Carson that he intended leaving plaintiff \$1,000, and he thus put a value on the services he considered plaintiff had performed during the 8 years from 1870 to 1878. As payment was not to be made until testator's death, the Statute of Limitations is not a bar.

In *Smith v. McGugan*, 21 A. R. 543, 21 S. C. R. 263, *Murdoch v. West*, 21 S. C. R. 305, *Walker v. Boughner*, 18 O. R. 448, and *Richardson v. Garnett*, 12 Times L. R. 127, the presumption arising from the relationship of the parties that the services performed were to be gratuitous, required to be rebutted. But in the present case no such relationship existed between plaintiff and William Carson, and there is, therefore, no presumption that the services performed by plaintiff between 1870 and 1879 were not to be remunerated by wages.

In *Smith v. McGugan* the Supreme Court held that specific performance of the oral promise made by plaintiff's grandfather to provide for her by will . . . could not be decreed, but that plaintiff was entitled to remuneration for her services for 11 years as on a quantum meruit.

*Ridley v. Ridley*, 34 Beav. 478, was not cited by counsel in argument, nor is it referred to in the judgment of the Supreme Court, on the question as to specific performance.

On the authority of the cases above referred to, plaintiff is entitled to recover as on a quantum meruit for the 8 years' services performed, and I think a fair sum to allow for such services is \$1,000, being the amount the testator fixed as what he intended leaving.

Judgment for plaintiff for that sum with costs.

OSLER, J.A.

DECEMBER 9TH, 1903.

C.A.—CHAMBERS.

RE CENTRE BRUCE PROVINCIAL ELECTION.

\* STEWART v. CLARK.

*Parliamentary Elections — Controverted Election Petition —  
Extending Time for Trial—Orders—Discretion—Practice.*

Application by petitioner to fix a day for the trial of the petition, and, if necessary, to extend the time for proceeding to trial.

R. A. Grant, for petitioner.