en cause. Il pouvait même être témoin, suivant la loi alors en force, à un testament solennel.

La seconde objection est que Côté n'a fait que sa marque. Cette objection n'est pas plus fondée que la première.

"It require, dit Greenleaf, No. 272, 1er vol., en parlant du Statute of Frauds, that the witnesses should attest and subscribe the will in the testator's presence. The attestation of marksmen is sufficient."

Et au par. 677, 2d vol., le même auteur dit: "The will must also be attested and subscribed by at least three competent witnesses, and here also, as in the case of the testator, a mark made by the witness as is signature, is a sufficient attestation."

Starkie, on Evid. vol. 2, part 2, p. 1262, dit: "Although proof be essential that the will was attested by the witnesses in the presence of the testator, it is not necessary that such attestation should be stated on the face of the will. The attestation of an illeterate witness, by making his mark, is a sufficient subscription."

Dans le 16 Law Journal, Queen's Bench, dans une cause de Davis vs. Davis, il a été décidé: "That under 29, Car. 2 C 3, S. 5, the making of a mark by an attesting witness is a sufficient subscription."

Et dans la cause de Amiss, rapportée au 2nd vol. de Robertson's Ecclesiastical Reports, il a été jugé "that a will subscribed by two attesting witnesses, capable of writing with marks, is sufficiently subscribed by them."

La troisième objection est que l'autre témoin était le cousin germain de la légataire.

Les mots du statut sont "shall be attested and subscribed in the presence of ihe said divisor by three or four credible witnesses."

Or, un parent a et a toujours été un "credible witness" suivant la loi anglaise. Greenleaf 1, No. 386.

Et dit Jarman, 1er vol. p, 82: "*Credible* was held to mean such person as were not disqualified by mental imbecility, interest or crime from giving testimony in a Court of Justice."