especially as the common law never admitted absence or any other disability as a cause of interruption of commercial prescription?

Finally the judgment of the Court of Queen's Bench is contrary to the letter of our Code. Article 2269 is indicated by the *Codificateurs* as showing the old law to be that "prescriptions which the law fixes at less than thirty years, other than those in favour of subsequent purchasers of immoveables with title and in good faith, and that in case of rescision of contracts mentioned in article 2258, run against minors, idiots, madmen, and insane persons, whether or not they have tutors or curators, saving their recourse against the latter."

If absence of the debtor suspended prescription in commercial matters, as the Court of Appeals has held, according to the maxim *contra non valentem agere nulla currit prescriptio, à fortiori* prescription should not run against minors; for as it has been very properly said, "les absents méritent moins de faveur que les mineurs et les interdits." *

Mr. Justice Caron further urged that the Promissory Note Act did not apply to Demers' note, because it was not *due and payable* in Lower Canada. However, that statute does not require that the note should be *made due and payable* in Lower Canada; the words *due and payable* involve no more than *due and exigible*, and every promissory note sued upon in Lower Canada must be considered as *due and payable* in Lower Canada.

Even granting that the 12 Vict. c. 22, does not apply to this case, then the 10–11 Vict. c. 11, does. If the 12 Vict. merely refers to notes made due and payable in Lower Canada, it cannot be reasonably assumed that the same does supersede in this case the 10–11 Vict., which provides for the limitation of all notes payable in or out of Lower Canada. Mr. Justice Caron is of opinion that the 10–11 Vict. has been repealed by the 12 Vict. This was certainly not done by express enactment; it can only be inferred from the fact that the 12 Vict. provides for the prescription of promissory notes. But if that statute does not comprise all notes, v. g. that of Demers, then it cannot be considered as repealing the former statute in respect of the same.

But, not to be severe upon the judgment of the learned judges, it must be mentioned that two of their Honors expressed a dictum a "je pense" upon the real question at issue; it may even be

* Laurent, Principes du Droit Civil, vol. 2, p. 148.