policy or of their duty to interfere with the University courses. All they have to do is to thoroughly test the men who come forward to the examinations. If the lecture courses be inadequate, if the lectures be worthless, if the students have neglected their opportunities, the examination is the test which will reveal their weakness. The degree does not help them. It only makes their rejection the more ignominious. Here the professional examining body have everything their own way. They may make the examination as stringent as they please, and by rejecting those whose proficiency is doubtful, they have it in their power to enforce a longer period of study. Why, then, should the General Council set up their views as to courses of lectures in antagonism to the governing bodies of the Universities?

SUPERIOR COURT.

SHERBROOKE, May, 1888.

Coram BROOKS, J.

AGNES L. WORTH v. EMMA M. WORTH.

Will, Interpretation of—Substitution.

HELD:—*Where the testator has given the estate in usufruct to the surviving consort, and the estate on the extinction of the usufruct is bequeathed to the daughters in full and absolute property, for their alimentary pension and maintenance, and at her or their death to be for their own and respective heirs, estoc et ligne, that a substitution was not created, but the daughters were owners each for one-half.*

PER CURIAM.—Action *en partage* by plaintiff, one of two sisters, who alleges that her father and mother each made their last will and testament, by which they bequeathed their property *in usufruct* to the survivor and in property to plaintiff and defendant, and asking for *partage*, and that they be declared each the proprietor of half the estate.

To this defendant replies, acquiescing in the *partage*, but taking exception to that part of plaintiff's declaration, which asks that they, plaintiff and defendant, should be declared the absolute proprietors of the estate, alleging that by the wills of their late father and mother, which are identical in terms, a substitution was created in favor of the children of plaintiff and defendant.

The wills are in these terms and are identical,—after the expiration of the usufruct, what is left after the decease of the survivor and the extinction of the usufruct:—"I give, "grant and bequeath the same in *full and* "*absolute property* to my two beloved daugh-"ters Agnes L. Worth (plaintiff) and Emma "M. Worth (defendant), her and their heirs "forever, being a *propre* to them and not "subject to the control of her or their respec-"tive husbands present and future, entirely "excluded of the community of property "previously existing between them and "their respective husbands, and on no ac-"count whatever liable to be seized and "sold for the debts of their respective hus-"bands, present and future, the same being "for their alimentary pension and main-"tenance, and at her or their respective "death, to be for their own and respective "heirs, *estoc et ligne*. I hereby constitute my "said beloved wife (or husband, as the case might be), my sole and universal legatee *in* "*usufruct* as aforesaid, and my said two "daughters and their heirs, my universal "legatees in *full property* forever, by virtue "of these presents."

The sole question is, did this create a substitution in favor of the children?

By Arts. 928 and 976, C.C., no words are necessary. Prohibition to alienate by will implies a substitution. In granting *ex parte*, defendant's petition for a curator, I held that it was better to grant than refuse, without deciding if really a substitution was created. Let us look at the words. At first sight the words, "*the same being for their alimentary pension and maintenance*" might seem to imply more than they really do. I think on a careful consideration of them and their context, that they simply imply that this property shall be *insaisissable*. Who is the *proprietor*? Because if there is no substitution, there must be a *proprietor*. The will says: "I give to my two daughters *in full and absolute property*, her and their heirs forever." It is true that our law encourages substitution, while the modern law of France does not; but such substitution must be created by the will and by the intention of