witness who speaks to conversations between testator, who does not characterise him as proposing to her a choice of what was in the will, or a one-third of the property as stated in the articles."

The defendant's counsel admitted in argument, "that the husband executed an article, I cannot deny, for I cannot deny what the will says." The decree was affirmed.

In 1837, the case of *Peyton* v. *McDermott*, 1 Drury and Walsh, 189, was decided by Lord Chancellor Plunkett. It was attempted to set up marriage articles executed in 1765. The Chancellor says: "I find possession going along with these articles. Again, I have strong evidence under the will of H. O'Rorke (the settlor) of the existence of these articles, as by a reference to them, the otherwise the apparent obscurity and confusion in that will and its limitations are explained and rendered plain." This was a very peculiar case in its facts.

The case of *Sadlier* v. *Biggs*, decided in Ireland, in 1847, 10 Irish Eq. Reports, 522, enters very fully into the law on this head. It came before the House of Lords in 1853, 4 H. L. 435. A memorial signed only by grantee was recorded in 1746. For one hundred years possession had gone in accordance with the facts it recited. The question was whether the original lease, of which it professed to be a memorial, contained a clause for perpetual renewal on the dropping of lives. Many renewals had been made under it from time to time. Proceedings had been taken to enforce a renewal in 1799, and a renewal obtained.

Lord St. Leonard says: "It has been made a great question in reference to the memorial, which is signed only by the party who takes the interest, whether that of itself by its own force shall be considered as binding the estate of the grantor? That is a totally different question from that which is now before your lordships, because here the question is, whether or not the memorial can be considered as secondary evidence of the contents of the instrument of 1746, and considering the length and nature of the deeds by which it has been recognized, and considering the statute itself under which that memorial was enrolled, and the proof which accompanies that memorial, and bearing in mind too that of course every memorial is signed by the person who takes the interest, because it is he, and not the grantor, who wants the protection of the register, I certainly am of opinion, and I think the authorities will not impeach that opinion, that this memorial is good secondary evidence of the contents of the deed of 1746, it being proved upon search, that the deed has actually been lost."

After noticing the formal proof required by the Registry Act, he continues; "Then the question is, the deed being lost and the possession having gone for a century, according to that deed, whether or not that memorial is secondary evidence of its contents. I confess I should be ashamed of the aw of England, if such evidence as that could not be received from necessity as secondary evidence."

In *Doe Loscombe* v. *Clifford*, 2 C. & K., 452, Alderson, B., rejected the memorial as any secondary evidence. He says: "The memorial is only evidence against the persons who register. I think that if there is no clause in the act of parliament, making the memorial evidence, it is only evidence against the persons registering, and those who claim under them." See also *Wollaston* v. *Hakewill*, 3 M. & G., 297.

In Buller N. P. 254, it is said, "When posession has gone along with a deed for many years, (the original being lost or destroyed,) an old copy or abstract may be given in evidence without being proved to be true, because in such a case it may be impossible to give better evidence."

Lord Redesdale says, in *Bullen* v. *Michel*, 4 Dow. 325, "When a record is lost from accidental injuries, an inference is always drawn from the secondary evidence of other circumstances, from which a jury is called upon to presume that of which no direct evidence can be shewn."

In Taylor on Evidence, vol. 1., 362, it is said: "On one or two occasions the memorial or even an examined copy of the registry has been received as secondary evidence of the contents of an indenture, not only as against parties to the deed who have had no part in registering it, but also as against third persons; but in all these cases the evidence has been admitted under special circumstances, as for instance, where parties have been acting for a long period in obedience to the provisions of the supposed instrument, or where the deed has been recited or referred to in other documents admissable in the cause."

I am not aware that our Canadian courts have pronounced any opinion supporting the plaintiff's proposition, or at all at variance from the rule to be deduced from the authorities above referred to.

The solitary fact that fifty years ago a memorial appears duly registered by Gough, the grantee, apparantely proved by a witness as referring to a deed, which he swears he saw executed by the grantor, shews to us that Gough then apparently asserted title to these premises. The land is not in any remote situation, but in York township, close to the capital of Upper Canada. Had the evidence shewn that possession was taken within any reasonable time after, and that Gough and his descendants acted as the owners of land in apparent accordance with the title as-