

RECENT ENGLISH DECISIONS.

executed, that these facts would not have amounted to a revocation.

**PROBATE—CODICIL ONLY DULY EXECUTED PAPER
FORTHCOMING—LOST WILL.**

Gardiner v. Courthope, 12 P. D. 14, is another probate case, in which at the death of the testatrix the sole testamentary papers forthcoming were a duly executed codicil, and two drafts of wills, as to the execution or revocation of which there was no evidence. It was held that though the codicil by its language was dependent on the will to which it belonged and could not be construed without it, it ought nevertheless to be admitted to probate.

NULLITY OF MARRIAGE—DURESS.

The only remaining case to be noticed in the Probate Division is the somewhat notorious one of *Scott v. Sebright*, 12 P. D. 21, which was a suit for nullity of marriage, on the ground that the petitioner had been induced to go through the marriage ceremony in consequence of threats and coercion and undue influence exercised towards her by the respondent. The petitioner, who was a young woman of twenty-two years of age, entitled to £26,000 in possession, had become engaged to the respondent, and shortly after coming of age had been induced to accept bills for his accommodation to the amount of £3,325. The persons who discounted these bills issued writs against the petitioner and threatened to make her a bankrupt. The distress caused by these threats seriously affected her health, and reduced her to a state of bodily and mental prostration, in which she was incapable of resisting coercion and threats; and being assured by the respondent that the only way of evading bankruptcy proceedings and exposure was to marry him. She reluctantly went through a ceremony of marriage with him at a registrar's office, the petitioner threatening to shoot her if she showed that she was not acting of her free will. The marriage was never consummated, and the petitioner and respondent separated immediately after the ceremony. The marriage was declared to be null and void.

**RESTRICTIVE COVENANT—REPRESENTATIONS—
COLLATERAL AGREEMENT.**

Turning now to the cases in the Chancery Division, we come to *Martin v. Spicer*, 34 Chy. D. 1, which appears to carry the doctrine

whereby a representation is construed as a collateral agreement, to an extraordinary length. The defendant, S., was the owner of various houses in Cromwell Gardens. He let one of the houses to the plaintiff. S.'s solicitor sent to the plaintiff's solicitor a draft lease with a letter ending: "I may perhaps add that the draft is the form used for all the houses on S.'s estate." The draft contained a restrictive covenant to the same effect as one in the deed by which the property had been conveyed to S., to the effect that no trade or business should be carried on, but that the house should be kept as a private dwelling. Six years afterwards the plaintiff negotiated for a lease for eighty years of the same house, and a draft agreement was sent him by the lessor's solicitor which contained a provision that the lease should contain such covenants on the part of the lessee as were usually inserted by the lessor in the leases of his other houses in Cromwell Gardens. The plaintiff's solicitor then wrote for the form of lease used by S., and a copy of a lease containing the restrictive covenant was sent; and a lease was granted to the plaintiff containing a similar covenant. Afterwards S. entered into arrangements to sell to his co-defendants three of his other houses in Cromwell Gardens for the purpose of converting them into a hotel, and this action was brought to restrain the user of these latter houses otherwise than as private dwellings. And it was held by the Court of Appeal that the representations made by S. to the plaintiff as to the form of the lease, amounted not merely to a statement that that was the then form of lease, but to a collateral contract with the plaintiff that the neighbouring property of S. should continue to be managed on that footing; and (affirming the order of Bacon, V.C.), that the plaintiff was entitled to an injunction restraining S. from authorizing any of his adjoining houses to be used for the purpose of trade. Cotton, L.J., said, however, that the injunction ought not to be extended so as to impose any liability on S. in case one of his tenants violated the covenant, and he did not bring an action against him.

**NOTICE OF MOTION RETURNABLE ON A DAY THE COURT
DOES NOT SIT.**

In *Re Coulton, Hamburg v. Elliott*, 34 Chy. D. 22, a notice of motion was given, returnable "four days from the date of this notice, or so