

nephews" A.B., R.L., and W.H., to be executors and trustees of the will, and she thereby gave all her residuary estate upon trust for division "between my nephews and nieces living at the date of my decease." Two of the nephews named as executors and trustees were nephews of her first husband, the other was her own nephew. The question was whether, in these circumstances, nephews and nieces by marriage were included in the residuary bequest. Sargant, J., came to the conclusion that only nephews and nieces by consanguinity took, and that not even the two trustees, who were only nephews by marriage, were included. The learned judge considered the case, to a great extent, one of first impression.

INTERNATIONAL LAW—DIPLOMATIC AGENT—PRIVILEGE FROM SUIT
—APPEARANCE—WAIVER—DIPLOMATIC PRIVILEGES ACT, 1708
(7 ANNE, CH. 12)—AUDITOR—LIABILITY OF AUDITOR—ULTRA
VIRE PAYMENTS.

In *re Republic of Bolivia Exploration Syndicate* (1914) 1 Ch. 139. In this case two points arose. The first was on a question of privilege. This was an application by a liquidator in a winding up proceeding. One of the parties, who had been summoned, was the secretary of the Peruvian Legation. On being served with the summons he had entered an unconditional appearance, but on the return of the summons it was objected on his behalf that he was entitled to diplomatic privilege from suit. The liquidator admitted that the privilege existed, but contended that by the unconditional appearance it had been waived. Astbury, J., held that under the Diplomatic Privileges Act (7 Anne, ch. 12), the defendant was entitled to the privilege claimed, and that the entry of the appearance was not a waiver, because having regard to the defendant being a foreigner he could not be presumed to know that the entry of the appearance would be a waiver, and because he doubted whether a subordinate secretary could waive the privilege even if he desired to do so, without the sanction of his sovereign. We may note that the Statute 7 Anne, ch. 12, though not included in R.S.O. 1897, vol. 3, is, nevertheless, probably operative in Ontario and other parts of the Empire. On the other branch of the case, as to the liability of auditors; the facts were that by the company's memorandum of association and a resolution of the board of directors a commission for placing shares of the company was authorized, and the auditors in reliance on this memorandum