LOST WILL—PROOF OF LOST WILL—PROBATE—PRACTICE—NEXT OF KIN.

In the Goods of Pearson, (1896) P. 289, Barnes, J., held that the contents of a lost will cannot be proved ex parte on affidavit for the purpose of obtaining probate thereof, where the next of kin are minors, and therefore unable to consent; but that the will in such a case must be propounded and proved in solemn form.

TRUSTEE—BREACH OF TRUST—NEGLECT TO REALIZE MORTGAGE SECURITY—RETAINING INVESTMENTS OF TESTATOR—DEPRECIATION OF SECURITIES.

In re Chapman, Cocks v. *Chapman*, (1896) 2 Ch. 763, was described by Lindley, L.J., as one of the most important cases which had been before the Court for years. The main point in controversy was whether the trustees of a will were personally liable for the loss which had resulted to their testator's estate by reason of their not having called in certain moneys outstanding upon the security of certain mortgages belonging to the testator's estate at the time of his death. The will in question authorized investments on mortgages of real estate, and at the time of the testator's death in 1880 the depreciation in the value of agricultural land in England had set in, and the trustees, in the exercise of their judgment, deemed it would be unwise to attempt to realize the outstanding mortgages, believing that it was better to wait till the value of land improved, but instead of improving it steadily got worse. Most of the mortgages were for two-thirds the price paid for the lands. The moneys outstanding were not required for the payment of debts or legacies. The case came originally before Kekewich, J., (1896) 1 Ch. 323, when it seems to have been conceded that the trustees were liable, and the only question argued was whether the Trustee amendment Act, 1893, s. 4, was retrospective, and it was therefore not then noted: but when the case was brought before the Court of Appeal (Lindley, Lopes and Rigby, L.JJ.) the question of liability, altogether apart from that statute, was raised by the trustees, and the Court unanimously determined that they were not liable, and that there is no rule of law which requires trustees to call in, in a falling market, investments made by their testator, or rendering