

parties had entered into a separation agreement which contained a covenant on the part of the wife not to sue for restitution of conjugal rights. The plaintiff contended that the Court was under no obligation to regard the covenant unless pleaded by the defendant, and Low, J., so held, and made the order as prayed.

PROBATE—LOST WILL—CONTENTS—ATTESTATION CLAUSE — ATTESTING WITNESS NOT PRODUCED—NO EVIDENCE OF IDENTITY OF WITNESSES TO WILL—PRESUMPTION OF DUE EXECUTION.

*In re Phibbs* (1917) P. 93. This was an application for probate of a will which had been lost. It appeared that the day before the death of the testator he requested one Knox to see that a cash box in his possession was handed to Miss Blanche Smith after his death. Knox took the box to Miss Smith and they together examined the contents and found therein a will which both read carefully. It was dated December 7, 1911, and appointed Tweedy, a Dublin solicitor, executor. The will was sent by registered post to Tweedy; but was believed to have been destroyed in a fire at the Dublin Post Office during a civil commotion. Miss Smith had been for fifteen years acting as a clerk in a solicitor's office and from memory she wrote the contents of the will which according to her statement bequeathed to her a legacy of £100, a like legacy to a nephew who had in fact been killed shortly before the testator's death, a small legacy to Mr. Tweedy the executor, and the residue to Miss Smith. Some letters of the testator to the executor were found with the will, which in many respects confirmed Miss Smith's statement. Miss Smith was a niece and one of the next of kin of the testator. Beyond the statement of Knox and Miss Smith that the will appeared to have been duly executed in the presence of two witnesses, there was no evidence as to who the witnesses were, or of execution of the will, although an effort had been made, by advertisement, to discover the witnesses. The other next of kin appeared and assented to the grant. In these circumstances Low, J., granted probate of the will in the terms sworn to by Miss Smith.

COMPANY — MEMORANDUM OF ASSOCIATION — CONSTRUCTION — STATEMENT OF OBJECTS — ULTRA VIRES — COMPANIES CONSOLIDATION ACT, 1908 (Edw. VII. c. 69) s. 3—(R.S.O. c. 178, s. 6 (2) (b))—(R.S.C. c. 79, s. 7 (b)).

*In re Anglo Cuban Oil Co.* (1917) 1 Ch. 477. This was an application to remove the name of a company from the list of