

Jean Fischer Wilson, at the time of her death on December 11, 1977, was a resident of Fitzwilliam, New Hampshire. The document purporting to be her will was filed for probate on December 13, 1977. It was attested by two witnesses and executed in the State of New Hampshire. The sole legatees under this purported will are the Smith College Alumnae Fund and two churches.

Roger H. Cole and David R. Cole, the first cousins of the decedent, are the only heirs at law and are entitled to the estate if the purported will is invalid. They seasonably objected to the allowance of the purported will on the grounds that it does not comply with the statute, RSA 551:2, which requires that a will be subscribed by three or more credible witnesses.

On June 27, 1978, a hearing was held in the Cheshire County Probate Court to determine if the purported will should be admitted to probate. Following the hearing, the court ruled that the purported will could not be admitted to probate and that the estate was to be administered on an intestate basis. The exceptions of the protesting charities were reserved and transferred to this court.

■ ■ The legatees under the will ask us to depart from the holding of *In re Amor Estate*, 99 N.H. 417, 112 A.2d 665 (1955), affirming the validity of our statutory three-witness requirement, RSA 551:2. They assert that New Hampshire is one of only four States that require three instead of two subscribing witnesses. That argument is for the legislature, which is the appropriate governmental body to amend or modify the statute as it deems appropriate.

*Exceptions overruled.*

Rockingham  
No. 79-045

WILLIAM J. COTTER

v.

BARBARA C. COTTER

May 23, 1979

[REDACTED]

*Glen E. Graper*, of Portsmouth, by brief and orally, for the plaintiff.

*Kearns & Colliander P.A.*, of Exeter (*Peter F. Kearns* orally), for the defendant.

### MEMORANDUM OPINION

The issue raised in this divorce case is whether the trial court's order regarding division of property and alimony should be set aside.

The parties were married on March 27, 1973, and were divorced by decree dated October 11, 1978. Title to a condominium and all stocks, bonds and the like in the name of plaintiff were decreed to him. All stocks, bonds, and the like in the name of defendant were decreed to her. Plaintiff was ordered to pay defendant \$600, which was money deposited by her to cover checks written by plaintiff. Support and alimony were specifically denied.

The decree was entered on the recommendation of the Master, *Henry P. Sullivan* Esq., after a hearing without a transcript, and defendant's exceptions were transferred by *Bean, J.*

Without a record in this case, we cannot say that the court abused its discretion in not awarding support or alimony. *McCrary v. Mahon*, 119 N.H. 247, 400 A.2d 1173 (1979); *Hunneyman v. Hunneyman*, 118 N.H. 652, 392 A.2d 147 (1978); *Greenglass v. Greenglass*, 118 N.H. 570, 391 A.2d 890 (1978).

*Exceptions overruled.*

[REDACTED]

Merrimack  
No. 78-136

THE STATE OF NEW HAMPSHIRE

v.

BUCKMAN ANDREWS OSBORNE

May 31, 1979

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]