

R. C. H. Cassels, for the administrators and the children of the testatrix.

F. W. Harcourt, for the infant children of George Wilkie, deceased.

BOYD, C.:—The construction of this will as to the phrase “what money remains to be equally divided amongst my family” is covered completely by authority. The gift to “my family” means, in the absence of any context (as here), children, and is a gift to a class. By this rule before the Wills Act, and not disturbed by it, one member of the class who dies before the testator disappears from the family, and the surviving children take all, to the exclusion of children of the deceased member. So that the residue here goes equally to the surviving sons and daughters: *Re Harvey*, [1893] 1 Ch. 567, and *In re Clark*, 8 O. L. R. 599, 4 O. W. R. 414.

Pay share of absentee into Court.

Costs out of estate.

BOYD, C.

MARCH 23RD, 1906.

WEEKLY COURT.

GIBSON v. GARDNER.

*Account—Reference—Executor—Stated Account—Audit by Surrogate Judge—Consent Judgment — Re-opening Account.*

Appeal by plaintiff from ruling of Master in Ordinary in course of a reference under a consent judgment to take the accounts of defendant Gardner as executor. The Master certified that he had adopted the result of an accounting before a Surrogate Court Judge up to the time of such accounting.

F. Arnoldi, K.C., for plaintiff.

A. H. Marsh, K.C., for defendant Gardner.

F. W. Harcourt, for defendant Vera Burdett Gibson, an infant.