

WILL—LIMITATION TO A. OR LIFE, REMAINDER TO B. IN TAIL—
CODICIL GIVING A. AN EXCLUSIVE POWER BY DEED OR WILL
TO APPOINT TO A CLASS—REVOCATION OF CODICIL—RES-
TORATION OF CODICIL ON PROMISE OF A, NOT TO INTERFERE
WITH B'S SUCCESSION—APPOINTMENT BY A. TO HIMSELF—
FRAUD—INVALID APPOINTMENT.

Tharp v. Tharp (1916) 2 Ch. 205. This was an appeal from the decision of Neville, J. (1916) 1 Ch. 142, (see ante p. 191), and in the course of the argument an agreement was arrived at and the appeal was dropped.

WILL—CONSTRUCTION—EXECUTORY GIFT VESTING—PERIOD OF
DISTRIBUTION—DEFEASANCE.

Ward v. Brown (1916) 2 A.C. 121. This case, though an appeal from the Supreme Court of Jamaica, deals with a point of general interest. The testator by the will in question directed that the trustees therein named should stand possessed of his residuary estate in trust to pay out of the income certain annuities to his wife and children, and that immediately after the death of his wife they should stand possessed thereof for all his children in specified proportions. It further provided that "if any child shall die in my lifetime or after my decease leaving a child or children who shall survive me, then in every such case such last-mentioned child or children shall take, and if more than one equally, the share which his or her parent would have taken of and in the residuary trust funds if such parent had survived me." It will be noticed that the latter clause provides for the death of a child before "or after the decease" of the testator, and also apparently contemplates that the child of such deceased child, in order to take, must have been born in the testator's lifetime. On the part of the appellants it was claimed that the will should be construed as if the words "or after my decease" were struck out, and on the part of the respondents it was claimed that the will should be construed as if the word "me" were struck out. The Judicial Committee of the Privy Council (Lords Dunedin, Shaw, and Sumner, and Sir Edward Barton) came to the conclusion that the effect of the will was to give a vested interest to each of the children living at the testator's death, subject to a defeasance in favour of the child or children of any such child dying prior to the period fixed for distribution, i.e., the death of the testator's widow.