

REVIEW OF CURRENT ENGLISH CASES.

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WILL—CONSTRUCTION—GIFT OF RESIDUE TO FORTY-SIX NAMED PERSONS—CODICIL REVOKING GIFT TO TWO OF NUMBER—CONFIRMATION OF WILL—INTESTACY.

In re Whiting, Ormond v. De Launay (1913) 2 Ch. 1. This was a summary application for the construction of a will made in 1906, whereby the testator gave his residue to be divided equally between forty-six named persons. By a codicil he revoked the gift to two of these persons, and in other respects confirmed his will. The question was, whether as to the shares revoked, there was an intestacy. *Cheslyn v. Cresswell*, 3 Bro. P.C. 246, was relied on, but Joyce, J., was of opinion that the facts not being the same as in that case, it was not binding; that the effect of the confirmation of the will by the codicil was to make the will speak as of the date of the codicil, and therefore that there was no intestacy.

WILL — CONSTRUCTION — HOTCHPOT — SUPPLYING OMISSION OF HOTCHPOT CLAUSE BY INFERENCE.

In re Haygarth, Wickham v. Haygarth (1913) 2 Ch. 9. In this case the construction of a will was in question, whereby the testator directed three several sums which he charged upon his real estate, to be raised and held upon the ordinary trusts of a settled legacy, in favour of his five cousins, including Fredericka, Georgina, and Katharine. Subject to this charge he devised his real estate upon an ultimate trust for sale, the proceeds to be divided equally between his five cousins as should be living when the trust for sale came into operation, but subject to the following provision for hotchpot: "but so that, if 'F., G., and K.,' or any of them shall then be living, or shall have previously died, leaving issue then living, such of the said sums hereinbefore directed to be set apart for their benefit as shall have been so set apart for the benefit of the one or more of them so dying, and her issue shall be brought into hotchpot and accounted for in the division hereby directed to be made of the net proceeds of my family estate." The will contained a subsequent provision that the child or children attaining twenty-one, or, if daughters, marrying, of such of his five cousins as should be dead when the trust