

RECENT ENGLISH DECISIONS.

WILL—REVOCATION—ERASURE OF SIGNATURES—WILLS ACT, 7 W. IV. & 1 VICT., c. 20, s. 20 (R.S.O. c. 106, s. 22.)

The only case in the Probate Division to which we think it necessary to draw attention is *In re Morton*, 12 P. D. 141. In this case a will, which after execution had remained in the custody of the testatrix, was found in her repositories after her death, with her own signature and the signatures of the attesting witnesses scratched out as with a knife; and it was held that there had been a revocation of the will within the requirements of s. 20 of the Wills Act (R. S. O. c. 106, s. 22).

SEPARATE ESTATE—RESTRAINT ON ANTICIPATION—PAYMENT TO MARRIED WOMAN UNDER ORDER SUBSEQUENTLY REVERSED—MARRIED WOMAN'S PROPERTY ACT, 1882

Turning now to the cases in the Chancery Division, *In re Dixon*, *Dixon v. Smith*, 35 Chy. D. 4, first claims attention. In this case a female infant being entitled to a residuary share of personalty contingently on her attaining twenty-one, at the age of sixteen married in the year 1879, having first executed articles for the settlement of all property to which she might become entitled, but the sanction of the court under the Infants Settlement Act was not applied for. Under these articles she took a life interest in the fund, with a restraint on anticipation. On the 9th November, 1884, she attained twenty-one, and in September, 1885, £9,000 being the bulk of her share, was paid to her on her separate receipt under an order of Bacon, V.-C., made under the authority of *Baynton v. Collins*, 27 Chy. D. 604, on the ground that the settlement was not binding on her. The trustees of the settlement appealed, and the Court of Appeal held, in accordance with *Reid v. Reid*, 31 Chy. D. 402, that she was not so entitled, and that the fund was subject to the trusts of the settlement, and that the sum paid to the married woman ought to be refunded. She refunded £7,100, but having spent the remaining £1,900 was unable to refund it. Subsequently, a sum of £1,648 9s. 7d. for arrears of income on the fund, part of which accrued before the married woman attained twenty-one, was paid to the trustees of the settlement, and they applied to the court for directions as to its application. The married woman claimed to be paid the whole arrears, on the ground that under *Pike*

v. Fitzgibbon, 17 Chy. D. 454, the restraint on anticipation prevented the application of the arrears of income in reduction of the £1,900 of capital unrefunded by her. But the Court of Appeal held that so much of the arrears as accrued before the married woman attained twenty-one was part of the capital of the fund subject to the settlement, and that so much of the income as accrued between the date of her attaining twenty-one and the date of the order of Bacon, V.-C., should be retained by the trustees to make good the £1,900 unrefunded, and that the balance only should be paid to the married woman. The Court of Appeal held *Pike v. Fitzgibbon* not to apply, as there the liability sought to be enforced arose on contract.

INFANT—MARRIED WOMAN—POST NUPTIAL SETTLEMENT—WARD OF COURT—INFANTS SETTLEMENT ACT (R. S. O. c. 40, s. 85).

Buckmaster v. Buckmaster, 35 Chy. D. 21, throws a perhaps somewhat unexpected light on the effect of the Infants Settlement Act (R. S. O. c. 40, s. 85). In this case a young lady aged eighteen, being a ward of court, contracted marriage without the leave of the court, and subsequently an order was made, directing an inquiry whether there had been a valid marriage, and if so, what the infant's fortune was, and what would be a proper settlement; and a settlement of the infant's fortune, which consisted of a reversionary interest in personalty, was thereupon executed with the approval of the court. During the coverture the tenant for life relinquished her life estate in one-fifth of the fund, which was paid over to the trustees of the settlement. Subsequently, on account of the husband's misconduct, a divorce was granted. After this the tenant for life died, and the question arose whether the marriage settlement was binding, the property settled having been a mere reversionary interest. Bacon, V.-C., held that the settlement was binding, either under the inherent jurisdiction of the court over its wards, or under the provisions of the Infants Settlement Act, notwithstanding that the reversionary interest had not been reduced into possession during coverture. But the Court of Appeal unanimously reversed this decision, holding that the court had no inherent power to compel its wards to execute settlements of