

BRITTON, J.

JUNE 5TH, 1903.

## CHAMBERS.

## RE SAVAGE.

*Will—Construction—Devise—Revocation by Codicil—Effect of—Specific Devises—Residuary Devise—Construing Will on Chambers Application.*

John Savage died on the 22nd May, 1890, leaving a will dated 22nd April, 1869, and a codicil thereto dated 23rd April, 1869.

By the will (cl. 3) he devised to his wife, Mary Ann Savage, all his real estate for life; and after her death (cl. 4) he devised to H. M. lot 31 on the north side of Henry street; (cl. 5) to B. B. lot 30 on the north side of Henry street; (cl. 6) all the residue of his real estate to J. B. and B. W. in trust to devote the income and profits to the relief of poor people in the town of Prescott.

The codicil was as follows:

"I hereby revoke my said last will and testament in so far as the same relates to or affects those certain portions or parcels of my real estate, namely, all and singular lot 26 on the south side of Henry street . . . and town lot letter D. . . . and change and substitute for such portion or portions part or parts of said will as refer to or affect said above named parcels of my real estate the following disposition and devise:—I give, devise, and bequeath my said above named real estate unto and to the use of my beloved wife Mary Ann Savage, her heirs, executors, administrators, and assigns, for her and their sole and only use and benefit."

Mary Ann Savage was the executrix of the will. She died on the 7th February, 1902, leaving a will.

The executors of the will of Mary Ann Savage applied for an order declaring the construction and interpretation of the will of John Savage and of the will of Mary Ann Savage, and for the opinion, advice, and determination by the Court of the questions: (1) Does the codicil to the will of John Savage revoke clause 6 of his will? (2) If it does, is there an intestacy as to the real estate not specifically devised, or did Mary Ann Savage take an estate in fee simple in the real estate not specifically devised? (3) If the codicil did not revoke clause 6, is the devise in clause 6 to J. B. and B. W. a valid devise, or is it void for uncertainty or otherwise? (4) If void, did Mary Ann Savage take an estate