
REVIEW OF CURRENT ENGLISH CASES.

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PROBATE—MUTUAL WILLS—JOINT TENANCY OF LEASEHOLDS—
SEVERANCE—REVOCABILITY OF WILL—SUBSEQUENT WILL ADMIT-
TED TO PROBATE—DECLARATION OF TRUST.

In the Estate of Heys, Walker v. Gaskill (1914), P. 192. This was a probate action in which it appeared that the testatrix and her husband being jointly possessed of leaseholds had executed mutual wills and had agreed each with the other, that they should be irrevocable. The husband died in 1911 and thereafter his widow made a codicil to her will of 1907 and subsequently in 1913 a new will. Certain persons who would be interested under the will of 1907 resisted probate being granted of either the codicil to the will of 1907, or the will of 1913; but Evans, P.P.D. held that, as far as the Probate Division was concerned, it was limited to ascertaining which was in fact the last will of the deceased, and that as the law did not admit that any will could be made irrevocable that Court was bound to declare the will of 1913 to be the last will and as such entitled to probate; and he also held that the agreement to execute mutual wills, and the execution of those wills, operated as a severance of the joint tenancy. The defendants claimed that the Court should declare that the executors of the will of 1913 were trustees for those entitled under the will of 1907, but the learned President determined that the Probate Division had no jurisdiction to make any such declaration, that being a subject reserved to the Chancery Division of the Court.

CHURCHWARDENS—ACTION BY ONE CHURCHWARDEN—EVIDENCE
—HISTORICAL WORK.

Fowke v. Berington (1914), 2 Ch. 308, was an action by a perpetual curate and one churchwarden to recover possession of a ruined part of a church on the ground that it was part of the parish church. The case is noteworthy for two points: first, it was ruled by Ashbury, J., that one churchwarden alone cannot bring an action; and secondly, that an historical work, "Hobington's Survey of Worcestershire," published in the 17th century, was inadmissible as evidence of the physical condition of the building when the author saw it.