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HON. MR. JUSTICE MIDDLETON. NOVEMBER 28TH, 1913.

RE ACHESON.

5 O. W. N. 361.

*Will—Construction—Gift to “Brothers and Sisters and their Children” — Right of Children of Deceased Brother and Sister to Share—Use of Plural Term — Only one Surviving Sister—Context.*

MIDDLETON, J., held, that where one brother and one sister of a testator had died before the date of the will leaving children, and there were alive at the date of the will several brothers and one sister of the testator, that a gift to “Brothers and Sisters and their Children” did not include in the beneficiaries thereof children of the deceased brother and sister of the testator.

Motion for the construction of a will.

M. Grant, for the executors.

W. N. Tilley, for the brothers and sisters of the deceased and their children.

W. Proudfoot, K.C., for the children of brothers and sisters of the deceased whose parents died before the will.

HON. MR. JUSTICE MIDDLETON:—The question now arising upon the construction of this will lies in narrow compass. The testator at the date of his will had brothers and sisters then living. His brother John had predeceased him, leaving six daughters. His sister Elizabeth had predeceased him, also leaving a family. The testator gave legacies to the different members of these families as well as to his surviving brothers and sisters and their children, giving to each family sums aggregating about \$9,000. Then he directs the residue to be “divided equally between my brothers and sisters and their children.” The question is whether under this the children of the deceased brothers and sisters take.