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1905 edition Excerpt legacies are governed by certain rules which distinguish them from other kinds and which determine the rights of the legatees with respect to them Of these rules the most particular and distinctive is that of ademption 1 Ademption is the taking away or removal of the legacy or in other words the extinguishment of it as a legacy so that the legatee s rights under or claim to it are gone The doctrine of ademption results from the very nature of a specific legacy as already defined By its very nature as the gift of a specific identified thing operating as the mere gratuitous transfer of the thing without any executory obligation resting on the testator or his personal representatives it follows that unless the very thing bequeathed is in existence at the death of the testator and then forms a part of his estate the legacy is wholly inoperative the legatee has no right or claim the executors are under no obligation to replace the thing by purchasing another one of the same kind as 438 Sampson v Sampson L R 8 Eq 479 Farquhar v Hadden L R 7 Ch 1 Residuary bequests A specific legacy may be included in a residuary bequest Mills v Brown 21 Beav 1 Davies v Fowler L R 16 Eq 308 Golder v Littlejohn 30 Wis 344 It will appear in the sequel that where a testator gives a bequest not of or a part of specific property but the property is merely designated as the particular fund out of which the legacy is payable such a legacy is or may be demonstrative not specific but where the testator deals with specific property belonging to himself not by giving legacies or sums of money out of it but by dividing and apportioning out the very property itself or the proceeds of it if it is directed to be sold and

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