

only the balance of the mortgage debts, after payment of debts, funeral and testamentary expenses and legacies, that went to the three canons. The majority of the Court of Appeal thought the evidence of the testator's solicitor as to the state of the testator's estate at the time the will was made, was admissible for the purpose of arriving at its meaning. Rigby, L.J., on the other hand thought that it was inadmissible, and that the will ought to have been construed without reference to any extrinsic evidence. The Court of Appeal also held that though the three canons would be entitled to be recouped out of the undisposed of personalty, any part of the debts funeral and testamentary expenses paid out of the mortgage debts, they were not entitled to throw any part of the general pecuniary legacies upon the undisposed of personalty.

DONATIO MORTIS CAUSA—NUNCUPATIVE WILL.

Solicitor to the Treasury v. Lewis (1900) 2 Ch. 812, was an action brought to determine whether or not a valid donatio mortis causa had been made by a deceased person, of whom the plaintiff was legal personal representative, of a certain part of her property to the defendant. The deceased was an old lady living alone, and shortly before her death, and in the anticipation thereof, she expressed a desire to give him all her property upon certain conditions, which by her directions he set down in writing. This document purported to give the defendant all the property she might have at her death subject to his settling up her affairs, seeing to her burial, and making certain payments to specified charities. She then delivered to the defendant a deposit note and share certificate, saying: "Take charge of them. If I get better you will bring them back; if not you will know what to do with them." She subsequently told him where to find gold and notes, but gave no further directions as to them. On her death, five days after, the defendant communicated the facts to the Crown authorities, and the plaintiff obtained letters of administration to her estate. It was argued for the defendant that there was a fixed intention on the part of the deceased not to make a will, and that the gift of the deposit note and shares was made in anticipation of death, and was a good donatio mortis causa. On the part of the plaintiff it was contended that it was simply an attempt to make a nuncupative will, and to allow the gift to prevail would