

WILL—CONSTRUCTION—MISNOMER OF DEVISEE—LATENT AMBIGUITY—EVIDENCE—COSTS—UNSUCCESSFUL LITIGANT.

*In re Halston, Ewen v. Halston* (1912) 1 K.B. 435. In this case a testator, by will made in 1891, devised his real property to his wife for life, and after her death "unto and to the use of John William Halston (otherwise Alston), the son of Israel Halston (otherwise Alston)," in fee simple. The testator died in 1899 and his widow in 1911. Israel Alston, the testator's brother, had a son called John William Alston who was born in March, 1874, whose existence was known to the testator, but who died ten days after birth, seventeen years before the date of the will. Israel Alston had other sons, one of whom, John Robert Halson (otherwise Alston) claimed the property. There was evidence that the son who died had received his names at the request of the testator, and that the testator had desired that John Robert should bear the name of John; also that the testator had told John Robert that the land would be his some day. There was no evidence that the testator knew that he had been given the name John Robert. The legal personal representatives of the testator issued a summons to obtain the decision of the Court as to who was entitled, which was served on John Robert and the three co-heiresses at law of the testator, only one of whom appeared and asserted a claim. Eve, J., held that the testator must have contemplated benefiting some person who was alive at the date of his will, and on the extrinsic evidence, which he held was admissible, he came to the conclusion that the devise was intended for John Robert. He also held that the costs of John Robert must be paid by the unsuccessful contestant, following in this respect *Re Buckton* (1907) 2 Ch. 406, 415.

EXECUTOR—RIGHT OF EXECUTOR TO PLEDGE CHATTELS—PLEDGE BY EXECUTORS MANY YEARS AFTER TESTATOR'S DEATH—PAYMENT OF DEBTS—NOTICE OF EXECUTORSHIP TO PLEDGEE.

In *Solomon v. Attenborough* (1912) 1 Ch. 451, the Court of Appeal (Cozens-Hardy, M.R., and Moulton and Farwell, L.JJ.) have not been able to agree with the decision of Joyce, J. (1911) 2 Ch. 159 (noted ante, vol. 47, p. 585). It may be remembered that the action was brought by the trustees of the will of Moses Solomon to recover possession of a quantity of plate belonging to the estate which had been pledged to the defendants in the following circumstances. The testator died in 1878, and by his will appointed two executors, to whom he gave his residuary estate in trust for sale and distribution as therein mentioned.