account continued their current account with Glaze, who from time to time paid moneys to the defendants. These payments, if applied according to the rule in *Clayton's* case would, by 6 Jan., 1896, have paid off the debt due to the bank when the second mortgage was given. The defendants never allowed Glaze to overdraw more than £3,500 except temporarily on deposit of additional security. Glaze also occasionally appropriated payments to meet particular cheques. The plaintiff through her husband, who was Glaze's solicitor, had full knowledge of all his dealings with the defendants. In 1899 Glaze became bankrupt and the defendants realized their securities for a price sufficient to pay the amount due them. The plaintiff did not then complain and he procured the defendant to release a guaranty given by Thomas Glaze for the debt of John Glaze, and thereupon he obtained a release of a counter guaranty which the plaintiff had given to Thomas Glaze. In 1905 the present action was commenced for an account, the plaintiff contending that the defendants were not entitled to charge as against the plaintiff for advances made to John Glaze after notice of the plaintiff's mortgage. But Eve, J., held that there was no intention on the part of the bank to appropriate payments according to the rule in *Clayton's* case, and that the debt for which they held their mortgage was never satisfied except by the sale, and he dismissed the action, and the Court of Appeal (Moulton and Buckley, L.JJ., Cozens-Hardy, M.R., dissenting) affirmed his decision. The majority of the court thought, that having regard to the circumstances of the case, and the conduct of the parties, no appropriation of payments by the bank according to the rule in *Clayton's* case could be presumed to have been made, but Cozens-Hardy, M.R., considered the case was governed by *Hopkinson* v. *Rolt*, 9 H.L.C. 514, and *Ratcliffe's Case*, 6 App. Cas. 722, and that the presumption of appropriation when there is a second mortgage is conclusive.

WILL AND CODICIL—CONSTRUCTION—SUBSTITUTION OF EXECUTOR—SUBSTITUTED EXECUTOR TO BE TREATED AS NAMED "THROUGHOUT," INSTEAD OF EXECUTOR ORIGINALLY NAMED—LEGACY TO EXECUTOR AS REMUNERATION—LEGACY TO EXECUTOR OF SHARE IN RESIDUE—IMPLIED REVOCATION.

In re Freeman, Hope v. *Freeman* (1910) 1 Ch. 681 is one of those cases in which the court had to solve a difficulty created by a testator, by reason of his apparently having followed a common