

WILL — CONSTRUCTION — DEVISE OF REAL ESTATE — TESTATOR NOT ENTITLED TO REALTY, BUT ENTITLED TO PROCEEDS OF SALE OF REALTY — INTENTION — EXTRINSIC EVIDENCE — ADMISSIBILITY.

*In re Glassington, Glassington v. Follett* (1906) 2 Ch. 305. A testator devised all her real estate to trustees upon certain trusts. The testatrix was not beneficially entitled to any real estate at the date of the will, or at her death, but she was beneficially entitled to a share of the proceeds of certain freehold property which was subject to a trust for sale. There had been no election by the testatrix to take the freehold property unconverted. In these circumstances, Joyce, J., held that the devise passed all the testatrix's interest in the proceeds of the real estate to which she was entitled, and that this was a case in which extrinsic evidence was admissible for the purpose of construing the will.

WILL — CONSTRUCTION — TESTATOR ILLEGITIMATE—BEQUEST BY ILLEGITIMATE TESTATOR TO "ALL MY NEPHEWS AND NIECES."

*In re Corsellis, Freeborn v. Napper* (1906) 2 Ch. 316. The testator whose will was in question in this case was illegitimate. He had lived with his parents and natural brothers and sisters as one family, and treated them as his lawful relatives. By his will he referred by name to all of his living natural brothers and sisters as his brothers and sisters, and to some of their children as his nephews and nieces, but he did not mention a deceased natural sister or her children, and there was no evidence that he knew of their existence. He made a bequest in favour of "all my nephews and nieces living" at a certain specified period, and the question at issue was whether the children of the deceased natural sister were entitled to participate. Eady, J., held that they were, and that the bequest was not confined to the children of the brothers and sisters actually named in the will.

WILL — ELECTION — COMPENSATION — BENEFITS UNDER WILL, HOW ESTIMATED.

*In re Booth, Booth v. Robinson* (1906) 2 Ch. 321. A testator by his will purported to dispose of property comprised in a settlement under which he took a life interest only, without any power of disposition. He also disposed of his own property. Some of the persons entitled under the settlement took other