

I think that the word "children," wherever it appears in the will, means only those children of the testator who were to be entitled to occupy the homestead with Hannah Lobb, namely, the three illegitimate children, Charles, James, and Annie, to the exclusion of his legitimate children. . . .

Taking into consideration, then, the language of the will itself and the surrounding circumstances . . . at the time of its execution for the purpose of explaining the testator's language, there is, I think, so strong a probability of the testator's intention to include the three children of Hannah Lobb only in the word "children," wherever used in the testator's will, that a contrary intention cannot be supposed. . . .

Action dismissed without costs.

MIDDLETON, J., IN CHAMBERS.

MAY 31ST, 1910.

RE WHITELAW.

Infants—Allowance for Past Maintenance—Exceptional Circumstances.

Motion on behalf of the guardian of infants for an order for an allowance out of the moneys in Court for past maintenance.

F. W. Harcourt, K.C., Official Guardian, for the applicant and the infants.

MIDDLETON, J.:—In this case the circumstances are quite exceptional, and, I think, warrant the order asked.

Let the order recite that "by direction of the Court the Official Guardian personally interviewed the infants, who are quite capable of understanding the nature of this application, and that the Official Guardian reports to the Court that the infants understand and approve, of the allowance being made; that he recommends the making of the order; and the applicant, in view of this allowance, undertakes to maintain the infants until they are self-supporting and to make no further application for maintenance."

The making of this order is not intended to indicate a general relaxation of the rule prohibiting applications for past maintenance.