evidence is admissible to identify and to show what was the subject-matter devised. The parol evidence to prove that the plaintiff was the son of a deceased brother of the testator, and therefore answered the description in the will was clearly admissible; and it is equally competent for the defendant to endeavour to prove that the words of the will may also apply to him; and this can only be done by parol evidence, which is, therefore, admissible for that purpose.

In each case the kind of parol evidence is not admissible for the purpose of controlling, varying, or altering the written will of the testator, but is admitted simply for the purpose of enabling the Court to understand it, and to declare the intention of the testator according to the words in which that intention is expressed. If such evidence establishes that the description in the will may apply to each of two or more persons, then a latent ambiguity is exposed; and, rather than that the devise should fail altogether for uncertainty, the law allows the ambiguity which is exposed by the parol evidence to be cleared up and removed by similar evidence, provided such parol evidence is sufficient to enable the Court to ascertain the sense in which the testator employed the particular expression upon which the ambiguity arises. If the parol evidence, after exposing the latent ambiguity, fails to solve it, the Court cannot give effect to that part of the will. Thus in *Thomas* v. *Thomas*, 6 T. R. 671, where the particular devise was, "to my granddaughter Mary Thomas of Llrelloyd in the parish of Merthyr," evidence was given that the testator had a grand-daughter of the name of Eleanor Evans, who lived in Merthyr parish, and a great grand-daughter named Mary Thomas, who lived in the parish of Llangoin, some miles from Merthyr parish. No other evidence being given, it was held that, although an ambiguity was raised, it was not solved, and, therefore, that the court could not apply the devise; that it consequently failed, and that the subject-matter of the devise went to the heir-at-law. The plaintiff's evidence in the present case clearly brought him within the description in the will. The defendant's evidence proved that he was the son of a brother of the testator's wife, and, the testator having married his first cousin of the same name as himself, the defendant's name was the same as that of the plaintiff. Does, then, the defendant by this evidence show that the description will apply to him? It is quite true that a son of a brother or a sister is generally called and known as a nephew; and this term, therefore, would no doubt apply to the plaintiff. But the word "nephew" has no definite legal signification, and there is not anything to limit the application to the precise relationship above described; on the contrary, there are many authorities to show that it has been and may be used in a much wider sense, extending to persons in a different degree of relationship; and, in its ordinary and popular sense, it is frequently and commonly applied to other persons; for instance, it is commonly applied by a husband to the son of his wife's brother or sister, or by a wife to the son of her husband's brother or sister. The son of either of such brothers or sisters would commonly call the husband and wife his uncle and aunt; nor could it be said that, in popular and ordinary language, such a description would be unusual or inappropriate. It is the court which has to be satisfied that the description may apply to the defendant; and, if it rested on this evidence alone, we should be of opinion that the defendant had brought himself within the description of the will so as to create a latent ambiguity, and to let in further parol evidence as to which of the two parties was intended to be described. It is not necessary that the description in the will should be in all respects accurate or perfect, but it is enough if it satisfies the mind of the judge that there is a sufficient description with legal certainty: see Vice-Chancellor Wigram's Treatise on Extrinsic Evidence, prop. 7, pl. 186, for example; where a testator devised to Mary, Elizabeth and Ann, the three daughters of Mary Brynon, and at the date of the will Mary Brynon had two legitimate daughters, and one illegitimate daughter, Elizabeth. Parol evidence was admitted to show that Mary Brynon had formerly had a legitimate daughter Elizabeth, who died an infant; and, although it was considered that the legitimate daughter was *primâ facie* the person intended, the other facts and circumstances were left to the jury to say which of the two Elizabeths was intended to be described: *Doe d. Thomas* v. *Brynon*, 12 A. & E. 431. The present case is also somewhat similar in principle to *Bennett* v. *Marshall*, 2 K. & J. 740, where, a devise being "to my second cousin, William Marshall," and the testator had no second cousin of that name, but had a first cousin once removed named William Marshall, and a first cousin once removed named William John Robert Blandford Marshall, it was considered by the present Lord Chancellor that, as it was a common practice, where a person has several Christian names, to call him by the first of those names only, a sufficient case of ambiguity was made out to call for parol evidence in order to ascertain which of the two parties was intended. Upon such evidence the decision in that case was in favor of the cousin with the several names; the Vice Chancellor remarking that, if the evidence had been perfectly balanced, the cousin named William only would have been entitled to the preference. So here, if the parol evidence were equally balanced, we might probably hold that the plaintiff would be entitled in preference to the defendant; but this cannot affect the question of the admissibility of the evidence. Another instance of effect being given to what was considered popular language used by a testator occurs in the case of *Doe d. Gains* v. *Rouse*, 5 C. B. 422, where the testator, who had a wife Mary, to whom he was married in 1834, and who survived him, in 1840 went through the ceremony of marriage with a woman whose Christian name was Caroline, and who continued to reside with him to the time of his death. By his will he devised certain property to "my dear wife Caroline her heirs &c. absolutely;" and the court held that Caroline took under this devise, notwithstanding the entire description was not applicable to her, the description being sufficient in a popular sense.

But there is another ground upon which it appears to us that the defendant may endeavour to bring himself within the description in the will—viz., that the testator was in the habit of