

The motion was heard in the Weekly Court at Toronto.
 H. Arrell, for the executors.
 J. H. Spence, for the husband of a deceased daughter.
 J. W. Bowlby, K.C., for Albert Taylor.

MIDDLETON, J., in a written judgment, said that the question was as to the effect of a clause in the will by which the lands in question were given to the testator's widow for life and at her decease to his daughter for life, "and at her decease . . . to her heirs executors and administrators and assigns to her and their use and behoof forever."

The question was one purely of construction, and the conclusion must be that the words used could have no greater significance than "heirs and assigns." There was no intention on the part of the testator to give the executors or administrators any beneficial interest, and long ago it was determined by Lord Mansfield and Wilmot, J., in *Rose v. Hill* (1766), 3 Burr. 1881, when land was given to A.B., his executors and administrators, that these words were equivalent to "heirs" and must be so construed.

This being the construction of the will, the case fell within the rule in *Shelley's case*, and the daughter took in fee.

As this was an old will, costs out of the estate could not be allowed; and no costs should be awarded unless counsel should suggest how they could be paid.

MIDDLETON, J.

SEPTEMBER 21ST, 1917.

*SEAGRAM v. PNEUMA TUBES LIMITED.

Fines and Penalties—Action for Penalties—Default of Incorporated Company and Secretary in Making Returns to Provincial Secretary—Ontario Companies Act, R.S.O. 1914 ch. 178, sec. 135—Remission of Penalties—Fines and Forfeitures Act, sec. 6 (1)—Application to Court—Forum—Master in Chambers—Jurisdiction—Judge of Supreme Court Sitting in Court—Rules 205, 207—Terms of Remission—Costs.

Appeal by the defendants from an order of the Master in Chambers refusing, on the ground that he had no jurisdiction, the defendants' motion, under the Fines and Forfeitures Act, R.S.O. 1914 ch. 99, to remit the penalties sued for in this action; and motion in the alternative for an order now remitting the penalties.