

## DECLARATORY JUDGMENT—RULE 289—(ONT. JUD. ACT, s. 57(5)).

In *Burghes v. Attorney-General* (1911) 2 Ch. 139 the court (Warrington, J.) made a declaratory judgment, declaring that certain forms issued by the Revenue Commissioners requiring the plaintiff to make certain returns, were unauthorized, and that the plaintiff was not bound to comply therewith.

## EXECUTOR—PLEDGE BY EXECUTOR OF CHATTELS OF TESTATOR—PLEDGEE.

*Solomon v. Attenborough* (1911) 2 Ch. 159. This was an action brought by the trustees of the will of Moses Solomon to recover a quantity of plate belonging to the estate of their testator which had been pledged with the defendants in the following circumstances. The testator died in 1878, and by his will appointed two executors, and gave certain pecuniary legacies, and his residuary estate to his executors upon trust for sale and distribution as therein mentioned. In 1892 one of the executors without the knowledge of his co-executor, pledged the plate in question with the defendants as security for an advance which he misappropriated. At the time of the pledge all the debts and legacies had been paid, but the residuary estate had not been completely distributed. It was contended by the plaintiffs that the pledge in such circumstances was unauthorized and invalid, because it was claimed that the debts and legacies having been paid the executors held the residue as trustees; but Joyce, J., held that, notwithstanding the lapse of time, the executor had the legal right to pledge the goods in question, and that the defendants were entitled to hold them subject to redemption.

## POWER OF APPOINTMENT BY DEED OR WILL—EXERCISE OF POWER BY WILL IN FAVOUR OF ALL OBJECTS EQUALLY—SUBSEQUENT APPOINTMENT BY DEED TO TWO OF SEVERAL OBJECTS—ADEMPTION—DOUBLE PORTIONS.

*In re Peel, Biddulph v. Peel* (1911) 2 Ch. 165. In this case a testator having under his marriage settlement a power of appointment by deed or will in favour of his children, by his will dated in 1869 appointed equally in favour of all of the children. Subsequently, by deeds made in 1897 and 1901, he appointed a seventh share to each of two of the children. He died in 1910, and the question arose as to the right of the appointees under