

payable by James and the proceeds of the sale of the Spence farm.

The contention that the bequests of the moneys payable by James Moyer and of the proceeds of the sale of the Spence farm are specific, is, in my opinion, well founded.

The rule applicable is thus stated in Roper on Legacies, p. 200: "If a testator direct his freehold or leasehold estates to be sold, and disposes of the proceeds in such a form as to evince an intention to bequeath them specifically, the testamentary dispositions will be specific, the money is sufficiently identified and severed from his other property, and, since he has sufficiently marked his intent to distribute the identical proceeds, the bequests are accompanied with all the requisites of specific legacies."

An instance of the recognition and application of this rule is to be found in *Page v. Leapingwell*, 18 Ves. 463. . . .

The gift of the \$600 payable by James Moyer and the proceeds of the sale of the Spence farm is a specific legacy within the meaning of this rule, the moneys are bequeathed specifically, they are identified and severed from the other property of the testator, and the intent to distribute the identical moneys is clear.

In *In re Ovey*, *Broadbent v. Barrow*, 20 Ch. D. 676, the Court of Appeal had to consider what is necessary to constitute a specific legacy. Without attempting to give an exhaustive definition of a specific legacy, the Master of the Rolls (Jessel) indicated that, speaking generally, it is necessary to make a legacy specific, that the subject of it be a part of the testator's property, a part emphatically as distinguished from the whole, a severed or distinguished part, and not the whole in the meaning of being the totality of the testator's property, or the totality of the general residue of his property after having given legacies out of it, and Lindley, L.J., adopted as a working though not an exhaustive definition, of a specific legacy, that it is "a bequest of a specified part of the testator's personal estate which is so distinguished:" p. 684. The case was taken to the House of Lords, and is reported, sub nom. *Robertson v. Broadbent*, 8 App. Cas. 812, and there the Lord Chancellor (Selborne) said that the principle of the exemption of personal estate specifically bequeathed from being applied in payment of pecuniary legacies is that it is necessary to give effect to the intention apparent by the gift, and, referring to the power of