

LATCHFORD, J., in a written judgment, referred to an instrument, dated the 28th March, 1882, by which Mary Ann Kilgour directed her trustees to pay a legacy of £800 to James Lawrence Cotter, within 12 months after the death of her sister. Mary Ann Kilgour died in 1885, and her sister on the 27th February, 1915. Some time before the 27th February, 1916, the money was received by the administrators.

By his will James Lawrence Cotter bequeathed to his wife, Frances Cotter, "the whole of my money of which I die possessed to be used by her for the benefit of the family." He then bequeathed certain books to his daughter Agnes Mary, and proceeded: "I bequeath to my eldest son George Sackville Cotter the remainder of my personal effects"—adding particular injunctions in regard to a ring, military decorations, and documents.

The widow, Frances Cotter, died in July, 1912, having made a will by which she bequeathed her property to her executors upon trusts not now material.

The learned Judge was of the opinion that under the words "the whole of my moneys of which I die possessed" the legacy of £800 passed, and was intended to pass, to the widow of James Lawrence Cotter. It did not pass and was not intended to pass to his son George under the words "the remainder of my personal effects." Accordingly there was no intestacy as to the Kilgour legacy.

That legacy was money; it became vested in James Lawrence Cotter upon the death, in his lifetime, of Mary Ann Kilgour, although payment was postponed: *In re Bennett's Trusts* (1857), 3 K. & J. 280; *Re Wood* (1880), 43 L.T.R. 730, 732.

The words "of which I die possessed" did not limit the bequest to moneys in the testator's actual possession at the time of his death.

Order declaring that the £800 passed to Frances Cotter by the will of her husband, and that the beneficiaries under her will are entitled to the fund. Costs out of the estate of James Lawrence Cotter.