KELLY, J., in a written judgment, took up the four questions seriatim:—

(1) The disposition to be made of that portion of the bequest to William Hounsell not paid to him in his lifetime was not a question which should require any direction from the Court, payment in such cases being usually made to the legal personal representative of the deceased legatee, or, in a proper case, into Court.

(2) The bequest to the testator's nephew Edwin Flemington, who predeceased the testator, lapsed, there being no express disposition of it in the event that happened, and he not being within the class referred to in sec. 37 of the Wills Act, as enacted by 9 Geo. V. ch. 25, sec. 15. The executor said that certain of the beneficiaries were desirous that the amount of the bequest should be paid to the widow and children of Flemington; but that was a matter for those who would be affected by such payment; without their consent the Court could not interfere.

(3) The testator provided for his wife during her lifetime, and then made this provision (para. 11): "I also desire that any amounts that may be left after my decease or decease of my wife, not otherwise provided for and after all necessary expenses have been paid *shall be equally divided among the above bequests.*" The executor expressed doubt as to the meaning of the words italicised. It was obvious that the testator used the word" equally" with an appreciation of its meaning and effect; and there was nothing to support the suggestion that the division he thus directed to be made of "any amounts that may be left" should be ratably among those whom he desired so to benefit. This was emphasised by the fact that in the very next paragraph, where provision was made for abatement in the event of an insufficiency of assets to meet the bequests, be made use of the words "pro rata," thus making a sharp distinction between the two methods to be applied. It was admitted that there were assets more than sufficient to pay the bequests. In directing the division equally among "the above bequests" the testator meant a division into as many equal parts as there were bequests. As to what these bequests are, it should be declared that what goes to the nephew William Hounsell is one bequest, and what goes to Charles Hounsell is another bequest; also that the $500 to George Hadley (para. 5) is a bequest, and that the $500 placed in his hands "for him to divide equally to his brothers and sisters who may be living at that time" is another separate bequest. The executor's doubts seemed to be in respect of the bequests made by paras. 4 and 5. The division under para. 11 will be equally amongst those to whom bequests were made by paras. 3, 4, 5, 6, 8, 9, and 10—the bequest made by para. 7 being excluded by reason of the lapse.