

that in case Amelia should marry and have children, his estate should be divided between the children of the two sisters on the youngest child coming of age; but he made no disposition in the event of Amelia marrying and leaving no children. The testator, however, gave power to his trustees to make advancements out of the expectant, presumptive, or vested share of any child of his sister Emma. After the testator's death, Amelia married, but her husband had died, and she was now a widow fifty-four years of age, and the question raised was whether, in these circumstances, the trustees were in a position to exercise the power of advancement in favour of a child of Emma. Kekewich, J., came to the conclusion that the power was spent as soon as it was shown that Amelia was past child-bearing; but the Court of Appeal (Lindley, M. R. and Chitty and Collins, L.JJ.), dissented from this view, and held that the power was exercisable so long as Amelia lived, and that although the law, in favour of a living person, would act upon evidence that a woman owing to her age could have no child, yet it would not upon that ground deprive a living person of any benefit he was entitled to, and although they agreed that on the death of Amelia without having had a child, the testator's estate would be distributable as upon an intestacy, they, nevertheless, held that as long as Amelia lived the children of Emma had a presumptive share in the estate, and were entitled to the benefit of the advancement clause.

EJECTMENT—RECEIVER—DISCRETION—LEGAL TITLE JUD. ACT, 1873, s. 25, SUB-S. 8. —(ONT. JUD. ACT, s. 58 (9).)

In *John v. John* (1898) 2 Ch. 573, which was an action of ejectment, an application was made for the appointment of a receiver. The plaintiff claimed to recover under a legal title, and in support of the application it was shown that the defendant was a person of small means with a shadowy title, whereas the plaintiff's was, in the opinion of the Court, satisfactorily made out, subject to a point on the construction of a will, which the Court considered very unlikely to be decided against him. North, J., granted the application, and his order was sustained by the Court of Appeal (Lindley, M. R. and Chitty, and Collins, L.JJ.) In exercising the discretion the Court of Appeal considered that the rights of tenants ought to be considered, who if the defendant failed might be called on to pay their rents twice over, a fact which the Court thought had been overlooked in *Foxwell v. Van Grutten* (1897) 1 Ch. 64.