

when the direction for sale should come into operation (each share to be retained upon the usual trusts of a settled share for such cousin for life, and after his or her death for his or her children), provided that if any of his cousins should die before the direction to sell came into operation leaving a child or children living when such direction should come into operation who being a male should attain twenty-one, or being a female should attain twenty-one or marry, then such child or children should take the share of the deceased parent would have taken if he or she had survived the testator. The testator died in 1902, and his brother died in 1911 without issue; and the present motion was for an adjudication as to whether the gift in favour of the cousins was valid. Joyce, J., in accordance with the law as laid down by James, L.J., in *Heasman v. Pearse* (1871), L.R. 7 Ch. 275, 282, 283, held that the gift was valid, and that under the limitation in question the person to take, if not definitely ascertainable immediately on the termination of the estate tail, was nevertheless ascertainable within a life in being and twenty-one years from the death of the testator.

**WILL—TRUST FOR CONVERSION WITH POWER TO POSTPONE—
TENANT FOR LIFE AND REMAINDERMAN—INCOME OF UN-
AUTHORISED INVESTMENTS—LEASEHOLD SUBLET AT A LOSS.**

In re Owen, Slater v. Owen (1912) 1 Ch. 519. In this case a testator gave his residuary estate to trustees on trust for conversion, with a discretionary power to postpone the sale, and directed the net proceeds to be invested and held in trust for his wife for life, with remainder to his sons. The will contained no direction as to the income pending conversion. The estate consisted largely of unauthorised securities, some of which produced no income, and some more, and some less, than four per cent. One of the questions submitted to the Court was what income should be paid to the tenant for life in respect of these unauthorised securities pending conversion thereof, and Neville, J., decided that four per cent. on the aggregate of such securities should be paid to the tenant for life, and if the income therefrom in any year did not realise four per cent., then any over-payment would have to be adjusted out of her subsequent income. Another question submitted was in reference to a certain leasehold estate of the testator, which had to be sublet at a loss of £50 per annum owing to the executors being unable to sell or surrender it, and Neville, J., decided that this loss must be deducted from the income of the residuary estate, as an outgoing of the estate.