

part of the legacy given to him by my above will for the endowment in his own name of a cot in a named hospital, and to retain the balance . . . for his own use." By a second codicil made two years later the testatrix declared, "I wish Colonel Russell after endowing the cot as provided in the first codicil, to use the balance of the legacy given to him by will for such charitable purposes as he shall in his absolute discretion think fit." Colonel Russell renounced and disclaimed the whole legacy of £2,300. It then became a question whether or not a good charitable trust had been created, and Joyce, J., decided that as to £1,000 there was a good charitable trust for the endowment of the cot in the hospital, and as to £1,300 there was a valid and effectual trust created for charitable purposes, notwithstanding anything that has been said in the later cases regarding precatory trusts.

WILL—CONSTRUCTION—ABSOLUTE GIFT—GIFT ON CONDITION—
PRECATORY TRUST FOR CHARITY—"I SPECIALLY DESIRE."

In re Conolly, Conolly v. Conolly (1910) 1 Ch. 219 a similar question to that raised in the last case also arose. The testator gave to his sisters Anne and Louisa equally, the rest of his stocks and shares, subject to a legacy to E. R. Conolly of £1,000, and he subsequently stated, "I specially desire that the sums herewith bequeathed shall with the exception of the £1,000 to E. R. Conolly, be specifically left by the legatees to such charitable institutions . . . as my sisters may select, and in such proportions as they may determine." It was argued that this latter clause had the effect of cutting down the previous absolute gift to the sisters to a life estate subject to a trust after their lives for charity. Joyce, J., came to the conclusion that in this case no valid trust was created. He points out in the first place that no "sums" strictly speaking were bequeathed to the sisters, that "sums might mean stocks and shares or only what they take in money which created an uncertainty as to what really was meant. He also points out that a further uncertainty existed owing to the fact that the property was to be left to such charitable institutions, etc., "as my sisters (i.e., the two) may select and in such proportions as they may determine," which, however, he thought might be taken to mean that each solicitor was to determine as to her own particular share only. But apart from these considerations, he held that the words used were not sufficient to create a precatory trust according to the recent cases, which he considered had established that an absolute