

Equity & Trusts Law Question:

1. Jane died recently and left the following validly drawn up will:

I leave one fifth of my shares in ABC PLC to Ernie hoping that he will use a substantial amount of income from them for the benefit of my children.

Half of the Wine in my cellar is to go to Jerry.

My three racehorses are to go to whichever of my friends and acquaintances my trustee may decide.

Advise Jane's executor and trustee as to the validity of the above.

Suggested Answer:

General introduction – Express Private Trusts – 3 Certainties

Lord Langdale – Knight v Knight

1. *Certainty of words and intention – Precaratory words.*
2. *Certainty of subject matter*
3. *Certainty of Objects*

I leave one fifth - See *Hunter v Moss*

Hoping – Precaratory words – *Lamb v Eames*, *Comiskey Re: Diggles*,
Re: Hamilton etc...

Benefit of my children - Certainty of objects fulfilled.

Half of Wine – See *Re: London Wines*.

Harry - Certainty of objects fulfilled.

My three racehorses – Certainty of subject matter fulfilled.

Look at *Re: London Wines*

Re: Beatty

Whichever of my friends and acquaintances my trustee may decide. –

Problems here over objects, discussion of class ascertainability rule, McPhail v

Doulton, Borough v Philcox, discussion, element of discretionary trust.

Difficulty over the discretion to the trustee.

Who are the friends and acquaintances?

How does one classify who is a friend and who is an acquaintance?

See: District Auditors etc...