

and the daughter is not living with this married sister, but with another married sister. The appointment of a guardian for an adult is, I think, nugatory; but it is plain to me that I ought not to order the money to be paid over to this lady, as mentally she is unfit to care for it. Mr. Rowell is quite content that the money should be paid over to a trust company for her benefit; and it appears to me that, in view of the feeling in the family, this is better than leaving it with the executors.

The trust company will have authority to pay over the income for the maintenance of Miss Sheard, with the approval of the Official Guardian, and resort may be had to the corpus at any time that it is necessary, but this should not be without notice to the members of the family represented by Mr. McPherson, so that every precaution may be had against the wasting of the money. I do not think it is necessary to appoint a guardian or committee.

Costs of both parties may, I think, properly be paid out of the testator's estate.

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MIDDLETON, J.

SEPTEMBER 29TH, 1914.

RE HOOPER.

*Will—Construction—Trust—Realty and Personalty—Power of Appointment—Cestui que Trust—Gift over, in Default of Exercise of Power, to Representatives of Donee—Absolute Estate—Rule in Shelley's Case—Married Woman—Separate Estate.*

Motion by a grandniece of one Hooper, deceased, for an order determining a question arising upon the will of the deceased.

J. S. Jones, for the applicant.

William Davidson, K.C., the sole surviving trustee under the will, appeared in person.

MIDDLETON, J.:—By his will the testator, who died on the 21st April, 1900, gave certain real estate to his trustees upon trust to pay the rents and profits to his grandniece during her life, but so that when she should be under coverture the sum should be for her separate use without power of anticipation, and after her death upon trust as she shall by deed or will