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CAN A SOLDIER WHO IS A MINOR MAKE A WILL?

It has been presumed with perhaps too much confidence that all soldiers in active service (whether they be of full age or not) are capable of making a will under the provisions of the Wills Act (R.S.O. c. 120, s. 14); but the recent case of *Re Wernher*, *Wernher* v. *Beit*, 117 L.T. 801, seems to cast considerable doubt on the accuracy of that position. The wills of soldiers under age generally deal with property of little value, and litigation as to the validity of such wills would not be likely to arise, due in the first place to the small amount usually involved, and in the next place to the natural desire of the relatives of the deceased to give effect to his last wishes, apart altogether from any considerations as to whether such bequests are or are not technically legal. When, however, as in *Re Wernher*, the estate affected by the will amounts to something in the neighbourhood of $5,000,000, the case assumes more serious proportions. The facts were simple: The young soldier whose will was in question was a son of the late Sir Julius Wernher, who by his will had given the deceased son a power of appointment over a sum of £1,000,000. The will in question was drawn by a solicitor and duly attested while the testator was in active service; he subsequently proceeded to the war and was killed, being still a minor. Even in this case those *in esse*, who would be entitled in default of appointment, were desirous of giving effect to the will; but in the interest of unborn persons who might become entitled the case was argued and various points advanced. It was contended that the section in the Wills Act did not authorize a will by a minor but merely dispensed with the formalities prescribed for the execution of wills and with this contention Younger, J., felt disposed to agree, but that he felt himself debarred from so doing because the Probate Division in