

Held (1) that the estate which became vested under the will in the granddaughter, was not defensible upon her marriage.
 (2) That the sale and distribution of the estate was not to take place until after the death of the granddaughter; and
 (3) That the grandchildren, the devisees over, took vested interests, and that all grandchildren born before the period of distribution were entitled and took *per capita* and not *per stirpes*.

Wight v. Church, 416.

[Reversed as to the first and second findings on re-hearing, see *post* volume xvi. page 192.]

11. A testator devised his property in trust, amongst other things, to pay his son an annuity of £100, and in case of his marrying with the approbation of the trustees, then they were to hold certain specified property, or to convey the same for the separate use of the wife during her life, subject if the trustees thought best to the payment of such annuity to the son, and after the death of the wife then to the use of the children of the marriage or their issue, with a proviso "that the trusts in favor of such wife and children shall not arise, nor shall the approbation of my said trustees of such marriage be presumed or proveable unless my said trustees shall by deed declare the said trusts in favor of such wife and children." The son married, but no declaration of trust in accordance with this proviso was made:

Held, that a declaration by deed was necessary to give the wife or children a *locus standi* in court, and that evidence of conduct on the part of the trustees tending to shew their approbation of the marriage was insufficient.

Foster v. Patterson, 426.

See also "Compos Mentis."
 "Extrinsic Evidence."

WILL, REVOKED BY DEED.

A testator devised 200 acres of his land to one of his sons, a minor, and the remainder (100 acres) to the testator's wife. The husband and wife afterwards agreed to live apart; that her 100 acres should be given to her at once; and that, in consideration of this, she should release her dower in the rest of his land. To effect this object, both joined in a deed of the 300 acres to a trustee; the trustee conveyed to the wife her 100 acres, and signed a declaration that he held the rest in trust to convey the same to any person whom the grantor should appoint:

Held, that the deed operated as a revocation of the will in equity, as well as at law:—the English statute (1 Victoria, chapter 26, sec. 23) not having yet been adopted in this country.

Loughead v. Knott, 34.