

Some persons are so conscious of their ignorance and inability to draw a will, that they are deferring it until they can conveniently obtain the assistance of those who possess the necessary skill. And there is a natural aversion in the human mind to any act which is associated, in such a close & painful manner, with our own death as the making a will. For these reasons and others, perhaps, which might be mentioned, wills are often, very often neglected to be made, where there is no legal disability and where the intestate would not, by any means, be satisfied with the order of succession which the law prescribes. Upon this account alone, if there were no other reasons, I should argue that there was a necessity for such an alteration of the present law as would provide for this general neglect, and would be adapted to the justice of the cases in general and the probable wishes of the intestate. But, in fact, there are additional arguments for such a modification of the law. It is required, not only in those cases where no wills are made, but in many where they are. For they are often void entirely. Still more frequently they are void in part and valid in part; as, for instance, they may be void as to the real estate and valid as to the personal, or void as to one lot of land or as to one devisee, and valid as to another. There may very probably be such cases as this; the eldest son, being settled during his father's life, the homestead is devised to the younger son, and the principal part of the personal property is bequeathed to the eldest son: the will is witnessed by only two persons, or by only two persons, besides the younger son. In this case the will is void as to the real estate and valid as to the personal. The effect will be this: the eldest son will take the personal property by virtue of the will and the whole of the real estate under the law of primogeniture. This would be a case of great injustice, but it is not a very improbable case. There is no uncertainty in such a case, however, as to the law on the subject. But there are many cases where wills