No. 9894. Equity,

of his displeasure, declares and acknowledhes that she doth execute the same freely voluntarily and without being induced to do so by fear or threats by her husband, and we the subscribers hereby further certify that we are satisfied of our own Knowledge, that them the said David B, Devitt and Elizabeth Devitt his wife, who have acknowledged the aforesaid are the same persons, who are described as and professing to be parties granters, in the foregoing deed of writing,

Acknowledged before and
certified to by.

M.E.Bartgis,
Geo, Hauer

State of Maryland Frederick county, to wit;-
I hereby certify that the aforegoing is a true copy of the Deed From David B, Devitt and Elizabeth Devitt his wife, to Casper Quinn as taken from Liber H.s. No,9, folio 360, one of the land Records for Frederick County,

PLACE Cir Court OF SEAL

in witness whereof I hereunto subscribe my name and affix the seal of the Circuit Court for Frederick County, Md, this 14th day of January.A,D,1919,

Eli G. Haugh,
clerk of the Circuit Court for Frederick County, Md.

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Opinion And Courts Order
the demurrer to Petition

James C Meysten
on
Petition

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No. 9894. Equity.
In the Circuit Court for Frederick County
Sitting as a Court of Equity.

The demurrer to the Petition in this case has been filed, upon the theory that the Petitioner has no interest in the subject Matter of the proceedings, The purpose of the Petition is to procure the appointment of trustees to execute a power of sale, as to certain real estate devised by the will of David B. Devitt the executors originally invested with the power being long since deceased, After devising the property to thetestator's widow for life, the will provides that it " shall continue as a home" for his children, Amelia, Margaret, philip and Anna solong as his eldest daughter Amelia sholud live, and remain single, but at her death or marriage the property should be sold, and the proceeds divided among the children share and share alike, or in equal shares, The testator died in 1865, his widow in 1869, and their daughter Amelia in 19II The Petitioner Married Anna Devitt in 1885, and she died without issue in 1910, leaving a will executed prior to her marriage by which she devised and bequeathed her entire estate to her two sisters Amelia and Margaret, philip Devitt died intestate, unmarried, and without issue in 1868, After the death of Anna and Amelia, the home prpeerty, remained in the occupancy of the surviving sister, Margaret, until her death, 1917,

The question raised by the Demurrer is whether the Petitioner by Virtue of his Marriage to Anna Devitt, has an interest in the property referred to or in the proceeds of its sale, under the power in the will, which entitles him to invoke the action proposed by the pending petition,

The interest of the petitioner's wife in the property consisted of the right to occupy it As a home until the death or Marriage of her sister Amelia, and then to Share equally with, her Brother and sisters in the fund derived from its Sale, as the right of occupancy thus conferr by the will upon Anna Devitt, could not extend beyond the period of her life, it was not an est ate to which any Marital interest of her husband could attach, But the share of the proceeds of sale Bequeathed to her by the will was an absolute interest to which she was entitled in any event, and which upon her death before the sale passed to her personal representatives, At the time of her death and at the period designated for the sale, the interest of the petitioner in his deceased wife's personal estate, was to be ascertained by reference to Sectios, 120-122 and 301-317, of Article 93, of the Code of public General Laws, The fact that the petitioer's marriage occured before the enactment of these provisions does not prevent their application to the subject of the present inquiry, for it is well settled that with respect to the devolution of a decedent the laws in existence at the period of distrubution must control Safe -Deposit Co,,