

expressly, or by plain implication, reduce the estate thus clearly devised, to a lesser interest.

The will is a very long one. It disposes of a large estate among the children and other objects of the testator's bounty. To his sons, of whom he had several, he devises portions of his real estate for life, in express terms, with remainder in fee to their children; but to his daughters, Matilda Hammond and Harriet Hammond, he gives the absolute and entire interest, in the most unequivocal language—the devise to them being, them, "their heirs and assigns forever."

There could, therefore, of course be no doubt upon the question, but for a clause in the latter part of the will, which is supposed to be repugnant to, or inconsistent with, the devise in fee to the daughters, and to place them upon an equality with the sons, who took estates for life only. These clauses being regarded as repugnant, the rule in the construction of wills is supposed to be applicable, which makes the posterior clause in local position, prevail, when the clauses are utterly irreconcilable, so that they cannot stand together; the subsequent words being considered to denote a subsequent intention.

The clause relied upon, and which, in conformity with the above rule, is supposed to reduce the fee simple estate given to Mrs. Pue, to a life estate, is as follows:

"I will and desire, that in case any of my said sons or daughters should die, leaving a child or children under the age of twenty-one years, that my surviving sons take the property of such child or children into their care and possession, and manage the same for the benefit of such child or children. And, I do hereby give and devise, to my said sons who shall be so surviving, the property herein before devised to such child or children, until they shall respectively arrive at the age of twenty-one years, or marry; in trust, however, to receive the rents," &c., thereof, for the sole use, benefit and interest of such child or children.

It is supposed, and it has been argued, that by force of this clause, which is posterior in local position to the clause which contains the devise in fee to Mrs. Pue, one of the daughters of