

pectively, to assist in setting them up in their several trades. If any of the said children die before arriving at the age of twenty-one years, the legacy by this clause given to the said child or children, so dying, to go and be distributed equally among the rest of said children."

*Item.* To each of my said niece's children now living, or hereafter to be born, I bequeath the further sum of five hundred dollars, to be paid to them severally, upon their arriving at the age of twenty-one years, or upon their marriage, if that shall be before their arrival at age, provided they marry with the approbation of their father and my executor, and not otherwise, and if any of the said children die before arriving at the age of twenty-one years, as aforesaid, or before marriage, then the legacy or legacies in this clause of my will, given to such child or children, so dying, to be distributed upon their arrival at age or marrying, with the approbation aforesaid, among the survivors of my said niece's children. And if my estate, after paying my debts and the other legacies given in this will, shall not be sufficient for the payment of the legacies given in this clause of my will, then the said legacies of five hundred dollars to be abated ratably, according to the deficiency of my estate."

The executor named in the will declining to act, T. P. Scott, Esq., was, by a decree of this court, appointed trustee in his stead, and directed to sell the real estate of the testatrix, and to bring the proceeds into court, to be invested under the direction of the Chancellor, for the uses and trusts mentioned in said will. The property was accordingly sold, and the proceeds proving insufficient to pay them, by the interest thereon, the annuitants mentioned in the will, Catharine Kelly, Mary Jane Hickey and her four infant children, filed their petition in the cause, asking that the annuities payable to them, and the arrearages thereon now due, might be paid to them out of the whole estate. Upon exceptions to the Auditor's accounts, the following opinion of the Chancellor construing the will, was delivered.]