

OFTEN A HAZARDOUS EXPERIMENT.

Judge Baker Discusses Second
Marriages of Elderly Men.

RESCRIPT IN A WILL CASE.

Consideration and Mutual Forbearance

Must be Shown in Relations of Parent and Children Under Such Circumstances.—Court sustains Will of

Lucius M. Butler of Cranston.

Judge Baker handed down a rescript yesterday afternoon in the Superior Court deciding the contest over the will of the late Lucius M. Butler in favor of the widow and executrix, Mrs. Elyra A. Butler.

The deceased lived in the town of Cranston and executed the will Sept. 22, 1904. The instrument was admitted to probate June 10, 1905, the testator having died May 14, 1905. By the terms of the will the deceased gave all his money to his wife, with the exception of the sum of \$5 to his son, Henry Earl Butler, to be divided at her decease in equal shares among three children, Herbert Marshall Butler, Lucian Abbott Butler and Helen May Butler Spahn. The widow was named as executrix, without bond.

In the first clause of the will the testator declared that no person whatever was aware of the disposition he was about to make of the property. The appeal was taken by the children.

Judge Baker reviewed the case at some length in giving the reasons for his decision. His rescript is as follows:

"This is an appeal from the decree of the Probate Court of the town of Cranston, allowing a certain instrument in writing, as the last will and testament of Lucius M. Butler. While other grounds for the appeal are alleged, the only one shown up is the undue influence

being shown up is alleged to be a second marriage. It is alleged that the future relations of such parent and children. Unless clearly established by actual forbearance be shown by all, friction is reasonably sure to ensue.

"In this case the second wife was apparently lacking in wisdom, and as an indiscreet if not mischievous talebearer made needless trouble between the father and his children. On the other hand, by her attention to his physical comfort and by her faithful ministrations to his necessities through a somewhat prolonged and trying illness, she won his gratitude and affectionate regard.

"But while her influence apparently aided in the estrangement of parent and children, the evidence does not clearly