

I haven't had time to look up much more about legitimacy this morning. I find this, however, in *Garnes v. Denney*, 24 How. p. 601. "The testamentary recognition of a child as legitimate is of the highest legal authority. All presumptions are to be taken in favor of such a declaration." I think you can make out your case. If you haven't got to finish your introduction till say the end of this week, I can look up the matter further for you.

I have looked a little into the question you ask about the law regarding the ~~quest~~ proof of legitimacy. I don't know whether the description "My daughter Nancy" in the will would be conclusive of her legitimacy. In *Am. & Eng. Encyc. of Law*, 1st ed. Vol. "Legitimacy" vol. 13, p. 224, it is said: "Every child in a civilized community is presumed to be legitimate where the mother was cohabited with and recognized by

4. The father as his wife, and in the absence of proof to the contrary, no other evidence of a legal marriage will be necessary to legitimize the offspring."

Again: "If the father is proved to have brought up the party as his legitimate son, this amounts to a daily assertion that the son is legitimate." Berkeley Peerage Case (1811) House of Lords.

Again: "Descriptions in wills will be received as evidence in pedigree cases." Taylor on Evidence 9th ed.

"Where a man speaks of a child as his daughter the presumption is that she is legitimate." Gaines v. New Orleans, 6 Wall. (U.S.) 670
" v. Henney, 24 How. (U.S.) 553.

This last citation, I think, goes very far to make out your case. I take it on the authority of the Encyclopedia, and haven't looked at the cases themselves. But I am not sure whether, in the absence of any other evidence, the description in the will would be conclusive of Nancy's legitimacy. I should think, however, such a declaration in so solemn an instrument, following bequests to other children would have, and ought to have very great weight. The citation from Taylor shows that it would be received in evidence. I will look into the matter