

one thousand Dollars. This is denied by the parties sought to be charged with said sums as advancements. The only question for this Court to decide is, whether any advancements were made to said children, and if so, what amounts were so given. "An advancement is a giving by anticipation the whole or a part of what it is supposed a child will be entitled to, on the death of the parent making it and dying intestate". There appears on the Book of accounts kept by the deceased, the following sums charged against his children, to Jane R. Wachter \$294.52; to Isaac A. Ramsburg \$200.00 to Sophia Stull \$320.47; to Cornelius Ramsburg \$195.--and to Mahala Sells \$172.00 These sums must be considered as advancements. "A gift of money or property by a parent to a child, is presumptively an advancement, but this presumption may be repelled or rebutted by evidence proper for the purpose. In other words whether such a gift takes the character and legal properties of an advancement or those of a full and absolute gift without a view to a portion or settlement, depends on the intention of the donor, and that intention may be ascertained by parol evidence of the donor's declaration at the time of executing the conveyance or making the gift, or of the donor's admission afterwards, or by proof of facts and circumstances from which the intention may be inferred."

Graves et al. Vs. Spedden et al. 46 Md. 533.

We have carefully considered the testimony adduced by both sides, and find that the charges against said children, in his book of accounts, all bear date prior to his second marriage, and the other money which he gave to them and his other children, appears, from the proof, to have been given since the second marriage, and are not charged against them. And, moreover, the testimony which proves the gifts shows that when the money was given to them, the father stated that it was intended as a present or gift. This statement, in every instance, except that to Mrs. Powell, accompanied the gift; and in her case the testimony of Dr. Waters shows that the notes (the subject of the gift) were given to her with the same intention and purpose, as the money to her brothers and sisters. The declarations of the father, made after the gifts took place, and out of the presence of the donees, are inadmissible to effect or change the legal character of them. "Such declarations, when offered in proof must, in order to be admissible, from part of the res gestae, that is, must be so connected with the making of the gift as to determine its character in this respect." Graves et al VS. Spedden et al 46 Md. 536

We therefore must conclude that the several sums of money shown to have been given by the father to some of his children, were absolute gifts, or presents to them, and were not intended by the father to be charged against them as a part, or all of what they might inherit from him. A great many exceptions have been taken to parts of the testimony, but many of them are of little or no importance, as the most of that objected to, has no material influence in deciding the question in dispute. In the view we have taken of the case, it becomes unnecessary to pass upon the exceptions filed by the defendants. All the exceptions filed by the plaintiffs to portions of the testimony of the defendants are sustained, save the exception to the third interrogatory propounded to John Ramsburg, and the exception to the fourth interrogatory propounded to Geo H. Powell, which are overruled.

It is thereupon, this 8th day of October A.D. 1892, by the Circuit Court for Frederick County, as a Court of Equity, and by the authority thereof, adjudged and decreed, that, after the costs of this suit and the widows portion in lieu of her dower, have been allowed out of the funds in this case, the balance of the funds be divided among the children and heirs at law of said Daniel Ramsburg, deceased, and that in making such division, the said Jane R. Wachter be charged with the sum of \$294.52 advanced to her; and that the said Isaac A. Ramsburg, in like manner, be charged in the sum of \$200.00 and that Sophia Stull, in like manner be charged with the sum of \$320.47. and that Cornelius Ramsburg in like manner, be charged with the sum of \$195.00 and that Mahala Sells, in like manner, be charged with the sum of \$172.00,

James M. Sherry.

John A. Lynch

Judges of the Circuit Court.

Filed October 8th, 1892.