

thing given should perish before the executor's assent, or be disposed of by the testator in his life time, it is lost.

How, and under what restrictions legacies are to be paid.

If a man give by will a debt due to him, this is a specifick legacy; and if the debtor become insolvent, the legacy is lost. If the money be paid in to the testator, by the voluntary act of the debtor, the legacy is not thereby lost, but the legatee will be entitled to the money paid in. If the payment of the money be called for, or compelled by the testator, it is said in many books, the legacy is lost; tho', if called in for security, as where the circumstances of the debtor become doubtful, it is also said, not to be reasonable that the legacy should be lost.

If a legacy be given at a future day after the testator's death, and the legatee die before the day, it is lost; but if given *to be paid* at a future day, it is a vested legacy, and shall go as the property of the legatee. The distinction is between the future time annexed to the substance of the gift, and only to the payment of it.

But if the legacy to be paid in future is to be raised out of land, and the legatee die before the time for payment, it shall sink for the benefit of the heir; unless the time of payment