

and chosen objects of his bounty should take, he then gives to five of his slaves their freedom, with small pieces of property for their support during their lives; and then, in conclusion, he provides for his creditors: but, in doing so, he cautiously guards against disturbing the equilibrium he had established among his devisees, by expressly declaring, that in case the fund, so set apart for his creditors, should not be sufficient, "that the property devised to my sons and daughters, and to my grandson, shall contribute in equal proportion, to the discharge of my debts."

314 *From this clause, and the general tenor of the will, there can be no doubt, that every devise, and every bequest, including the emancipation of his slaves, for the gift of freedom to a slave, is a most precious specific legacy, are all of them specific legacies which can, in no manner, be made abateable or reducible by any deficiency of the testator's personal estate; but, in case of any deficiency of that which he has designated as the creditors' fund, the several devisees, charged with contribution, might be compelled to contribute toward the satisfaction of the testator's debts to the whole amount of the property given to them, before the donations to the wife and freed slaves, who are not so charged, could be at all molested. Indeed it seems to be admitted, that the intention of the will, to this effect, is so unequivocally clear as not to leave room for the smallest doubt upon the subject.

But the testator, by his codicil, informs us, that he himself had broken in upon the proportionate distribution which he had previously made with so much precision, and which he had manifested so much solicitude to preserve, by parting with some of the negroes he had given to his son Charles and his daughter Harriet, and then says, "I do therefore, in lieu of the said devises, give and bequeath to my said son Charles the sum of \$700, and to my said daughter Harriet the sum of \$300, respectively."

From which it clearly appears to have been the intention of the testator to restore, in all respects, the proportions which had been thus disturbed; and that the money, so given, should take the place, and stand in lieu of the negroes in those shares from which they had been withdrawn; and that he intended to declare, that as the negroes had been given as specific legacies, subject only to contributions in the event and manner designated, so those sums of money should, in like manner, be deemed and taken as specific legacies, attended with the like benefits, and subject to the same extent of contingency and incumbrance, and no more.

I am therefore of opinion, that these sums of money, given to Charles and Harriet, should have been paid by the executors in the first instance, as specific legacies, out of the fund set apart by the testator for the payment of his debts, as, in fact, not forming any part of it; since it cannot be inferred from any thing said by him, that they were to be paid from any other portion of his estate.