

be allowed any portion of the profits after she had obtained her share of the negroes themselves.

It only remains to ascertain what the testator William meant by the home, the support, and the dividends of the rents and profits he gave to his widow and younger children. In contemplating these subjects it should be borne in mind, that a man is under a moral and legal obligation to maintain his wife and infant children. They are among his highest and most honorable duties. With regard to his wife, the legal duty fastens a lien upon his property, which may be made available after his death, in opposition to any previous act of his; her dower and distributive share being rights of which he cannot deprive her. He may, it is true, give his property totally away from his children; but the presumption of law is, that nature is sufficiently strong to bind him to his duty, in this respect also, unless there be some cogent reasons for a different course. *Rawlins v. Goldfrap*, 5 Ves. 444; *Glaister v. Hewer*, 8 Ves. 206; 2 Fomb. 121.

This testator declares, that his wife and daughters and her son shall have a home at his mansion house. The home thus given,

627 *is a local habitation, a place of residence. It is a right to have the enjoyment of a certain house, as a dwelling place. The right of habitation is confined to so much as is necessary for the habitation of him to whom it is granted, and his family. It is the donation of a privilege, so absolutely personal in its nature, that it cannot be leased or assigned to another, nor is it such an estate, as if given to several, can be separated by partition, and given to each one in severalty. The party to whom it is given, may enjoy or leave it at pleasure; but he cannot claim compensation for it from any one, unless he has been hindered in, or driven from the enjoyment of it; of which, their being here no allegation, there need be no inquiry as to the value of this bequest to any one of these legatees. *Co. Litt.* 122, a; *Ayliffe, Civil Law*, b. 3, tit. 7; *Domat*, b. 1, tit. 11, s. 2; *Code Napole. Civil. s.* 633, 634; *Warfield v. Gambrill*, 1 G. & J. 503.

The testator William, then proceeds to direct, "that all the property be kept together, and worked by the family slaves, until my son Walter shall arrive to full age, for the support of the family." This is a provision made by a husband and a parent, for his family; and therefore, should have a construction, at least co-extensive with what his duties were, when he was alive. His family was rightfully composed of his wife and his infant children; each of whom, as such, during his life, was entitled to a reasonable and proper maintenance from him according to his means and circumstances. Hence, it is fair to presume, that he intended by these comprehensive expressions in his will, to have his property so applied, as most effectually to accord with the duties of a husband and a parent. Being satisfied that this was the general intention