

in the devise to each son, whilst in the clauses devising to the daughters the terms used are, *to her heirs and assigns forever*.

In view of the marked difference in these devises; the repetition of the same identical language in the devises to each son, and each daughter, it would require a very strong implication to induce the court to believe, that notwithstanding the apparent care of the testator to give different estates to his sons and daughters, as thus manifested, still he intended to place them upon a footing of entire equality. If such was his intention, why did he give himself the trouble to repeat with scrupulous care, the same language in the several devises to his sons, and employ totally different terms, with a meaning essentially variant, when he came to provide for his daughters?

We might speculate upon the motives which actuated the testator to make this difference, and by possibility hit upon the true one; but it is quite as likely we should fall into error, and as we have no concern with his motives, and are only bound to carry his intentions into effect, as well as we can ascertain them, we will not indulge in conjectures upon the subject. That he did not mean to place his sons and daughters upon an equality with regard to the real estate devised to them, seems to me very obvious.

The sons, as we have seen, took estates for life with remainders in fee to their children; and upon these devises the clause creating the trust will operate, without disturbing the devises to the daughters. The cause in question was intended to operate upon property, which the testator had devised, or thought he had devised to his grandchildren; but he had devised nothing to the grandchildren who might be born of his daughters, and, therefore, as to them, the provision in the latter part of the will, must be ineffectual, though it will operate upon the property devised to the grandchildren born of the sons. The testator may have thought, that although he had given his daughters estates in fee, still their children, if they left any, would take under his will, and not by descent from the mother, and that, therefore, he could place it in the hands of trustees for their use. But it is clear that he had devised nothing to the children