which time he not only made no attempt to enforce its payment, but made declarations to the effect that he had forgiven his son the debt.

Cases of this description have no affinity with, and are to be carefully distinguished from, purely voluntary contracts or gifts *inter vivos*, or donations *mortis causa*, which cannot be maintained, if the gift is imperfect, by the retention by the donor, of the legal power and dominion over the subject. To make a *donatio inter vivos*, or *donatio mortis causa* good, there must be an actual delivery, according to the manner in which the particular thing, the subject of the gift, is capable of being delivered. If this is wanting, the gift is invalid, at law and in equity.

Pennington vs. Gittings, 2 *G. & J.*, 208.

But the case now under consideration, and all similar cases, are placed upon the ground, that the transaction is exclusively between the creditor and debtor, and in view of all the circumstances, that the intention of the creditor is clearly indicated, that the debt should be forgiven, and released to the debtor himself.

2 *Story's Equity*, *section* 706, *(a)*.

Now in this case, I am quite convinced, that the father of the complainant did intend to forgive and release his son from the payment of this debt, and being so convinced, I consider it my duty to decree the delivery up, and cancellation of the bond, the evidence of that debt. But the case being against an executor, who is acting simply in the proper discharge of his office, the decree will be without costs.

E. Hammond for plaintiff.

J. S. Tyson for defendant.