

death, it is found in the hands of his executor, or of a party to whom he assigned it, though the precise time when it came to the possession of the executor does not plainly appear.

His paying the interest to his daughter during his life, is certainly a circumstance to show that in selling the land, he did not intend to take from her altogether the benefit she and her husband had previously enjoyed, from the privilege of cutting wood upon it; but it is not evidence, or at all events, it is far from being conclusive evidence, that he had given her the principal since due on the note. Indeed, looking to the whole evidence, I think the inference might fairly be drawn, that he did not intend to give her the principal, and that the gift was confined to the interest. Such is my construction of the evidence of Mr. Rogers, who, in explaining what he meant by the words used in his examination in chief, that "the whole belonged to her," said, that his impression derived from conversations with Mr. Betts was, that as he intended to give the property to his daughter (meaning the land sold to Mr. Rogers), he had devoted the *interest* of the proceeds to her use, and considered it as hers.

That Mr. Betts did not intend to give this note absolutely to his daughter, may be fairly inferred from the provisions of his will. All that she takes under the will, is placed in the hands of trustees for her separate use, free from the power, control, or disposal of her then or any future husband; and not only so, the property thus secured to her separate use, by the will, is for her *life only*, with limitations over to other uses, as in the will is provided. She then, under the will, takes nothing absolutely, her interest being limited to her separate use for life, with remainder to others. Now, it is not at all likely that Mr. Betts, whilst carefully guarding the devises and bequests to his daughter from the danger which he apprehended might result from the improvidence of others, and whilst he thus limited her interest in the property given by his will to her use for life only, would make an out and out gift of upwards of \$2,500, thus placing so much of his estate, by a gift in his lifetime, exposed to perils and contingencies against which he so studiously protected the property