

Upon examining the deed in this case, it may be very fairly inferred that it comprehended all or nearly all the grantor's estate, real, personal, and mixed, and it appears to have been carefully drawn to retain to him the actual use and enjoyment of the property, without subjecting it to the payment of his debts. Certainly it is quite impossible to say that this deed was intended chiefly for the benefit of the wife, whose power and control over, and interest in the property, is so subordinate to that of the husband.

If a man may, after marriage, make provision for his wife and children, provided he does not impair the right of existing creditors, and a provision so made will be considered as founded upon a good consideration, and *bona fide* and impregnable against subsequent creditors, it by no means follows that he will be permitted, under cloak of providing for his wife and children, to place his property in a condition in which he shall have the substantial use and enjoyment of it during his life, with power to dispose of it by will or to direct its course after his death, that it shall descend to his heirs-at-law, and at the same time have it protected from the claims of those who may deal with, and trust him during his life.

The trusts of this deed, are 1st, for the use of the grantor and his wife during their joint lives, and the life of the survivor, with power to them jointly to dispose absolutely of the property during their joint lives; 2dly, in case the grantor should survive his wife in trust, to permit him to dispose of the property at his pleasure; and, 3dly, whether he survives her or not, in trust for such person or persons as he may appoint by his will, and in case of his failure, to make such testamentary appointment, then in trust for his heirs-at-law.

The whole interest, therefore, of the wife, is an interest in common with her husband during their joint lives, or for her own life, in case she should survive him. But no power of disposition is reserved to her independently of her husband, whilst to him after her death, such power in the fullest terms is given, either by deed or will, and in case he fails thus to dispose of the property, it descends to his heirs-at-law.