

adjusted, and that no further demand in respect thereof would ever be made. It is true, the agreement before referred to shows that the complainant, Mary, notified the trustee in January, 1841, and afterwards, of her claim for interest on the \$20,000. But there is nothing in the record to show that any demand ever was made on either the trustee or Donnell, after the 9th of June, 1842, when the segregation took place, and the complainants received their \$20,000 in property, until the bill in this case was filed, in June, 1847. The complainants, therefore, so far as the record informs us, acquiesced for seven years in what may safely be supposed was the impression of Mr. Donnell, that all questions between him and the complainants, with regard to this portion of the property, was finally settled and closed up.

But waiving any objection to this claim now set up, founded upon lapse of time or acquiescence, or upon any of the circumstances which have transpired since the death of Mrs. Donnell, I purpose very briefly to consider whether, upon the terms of the marriage settlement in this case, and in accordance with the principles which govern the Courts, in deciding the question of interest upon legacies or gifts in their nature testamentary, the complainants are entitled to interest, or a proportion of rents and profits, upon the sum of \$20,000, as claimed in their bill.

Most of the rules upon this subject are stated by Mr. Justice Story, with his accustomed perspicuity and force, in the case of *Sullivan and Wife vs. Winthrop et al.*, 1 *Summer*, 1. It was there said, that in the case of a pecuniary legacy, where no time of payment was fixed by the will, and no interest provided for by its terms, the rule was irrevocably established, that the legacy itself was not payable until the expiration of one year from the testator's death, and that interest upon it did not commence earlier. And although the marriage articles in that case provided, that in the event that the intended husband of the testatrix should survive her, her trustees should, *forthwith upon her decease*, convey and transfer her property to such person or persons as she should appoint, or to whom