

received the profits of their negroes. Consequently, the legacies given by the testator *William* can, in no respect, be considered as a satisfaction of this claim of his children.

I am, therefore, of opinion that the one-third of the negroes given by the testator *Baruck* to the rest of the children of his daughter *Kitty* must be regarded as a specific legacy of things which passed at the time of his death; as an immediate gift of a fund with all its produce; and that, therefore, the legatees of these negroes became entitled to their profits immediately from and after the death of the testator *Baruck*; and their father, who held these negroes, as their guardian, must be charged with the profits of them from the time of the death of the testator *Baruck* down to the time of his own death, when they passed into other hands; but more especially because by his will he put these legatees to their election as to the use of these same negroes, which then remained in his possession; and under the designation of 'the family slaves' were a part of that property he directed to be kept together for the use of the family. (n) But in making this estimate of the amount of the profits of these negroes due to each one of these legatees, it will, of course, be recollected that no one of them can be allowed any portion of the profits after she had obtained her share of the negroes themselves.

It only remains to ascertain what the testator *William* meant by the *home*, the *support*, and the *dividends* of the rents and profits he gave to his widow and younger children. In contemplating these subjects it should be borne in mind, that a man is under a moral and legal obligation to maintain his wife and infant children. They are among his highest and most honourable duties. With regard to his wife, the legal duty fastens a lien upon his property, which may be made available after his death, in opposition to any previous act of his; her dower and distributive share, being rights of which he cannot deprive her. He may, it is true, give his property totally away from his children; but the presumption of law is, that nature is sufficiently strong to bind him to his duty, in this respect also, unless there be some cogent reasons for a different course. (o)

This testator declares, that his wife and daughters and her son, shall have a home at his mansion house. The home thus given,

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(n) *Kirby v. Potter*, 4 Ves. 748; *Raven v. Waite*, 1 Swan. 557.—(o) *Rawlins v. Goldfrap*, 5 Ves. 444; *Glaister v. Hewer*, 8 Ves. 206; 2 Fonb. 121.