

such previous time as the trustees might see fit to pay over the same to the legatees; and that in case of the death of either, the whole should be paid to the survivor; the will containing no gift over in case of the death of both: the Court *held*, that the trustees and executors had a discretion to apply part of the principal to the support and education of the legatees.

In re McDougall, 609.

9. In such a case the executors and trustees presented a petition under the Statute 29 Victoria, ch. 28, sec. 31; and it appearing that the parents of the legatees had abandoned them: that the legatees had no other means of support; and that the interest on their share of the residuary estate was inadequate for their support: the Court made an order approving of the application of part of the principal to supply the deficiency.—*Id.*

10. It is not settled whether, under a will that went into effect before the Act 29 Victoria, chap. 28, sec. 15, a charge of debts on real estate by the will gave executors an implied power to sell.

Grummet v. Grummet, 648.

11. Executors sold and conveyed land under a supposed power in the will. This construction of the will being disputed, they filed a bill to confirm the purchaser's title, the defendants being the purchaser and one of the devisees. But the Court *held*, that the question could not be decided on a record so constituted.—*Id.*

WITHOUT INTEREST.

(MORTGAGE PAYABLE.)

A mortgage dated 23rd May, 1846, secured the payment of £112 10s. without interest, on or before the 23rd May, 1847, contained a power of sale on default of payment, and provided that the mortgagee after deducting the costs and expenses of sale "and the said sum of £112 10s., without interest," should pay the surplus to the mortgagor.

Held, that interest was payable from default; but from the correspondence between the parties the Court treated the interest as paid up to May, 1859.

McDonell v. West, 492.