

that the money coming to H. R. Watson and Frances J. Watson would be considerably less than \$1,000 each.

Richard Watson died on or about 25th November, 1903, having first made his last will and testament, bearing date 17th February, 1902, probate whereof has been granted to H. R. Watson.

The will is as follows: . . .

[After a bequest of furniture and clothing to Frances Josephine.]

“I hereby give, devise, and bequeath the rest and residue of my estate, both real and personal, to my son Harry Richard Watson for his sole use and benefit, subject to the payment by him to my daughter Frances Josephine Watson of the sum of \$1,000 for her sole use and benefit.” . . .

It is contended on behalf of the executor Henry Richard Watson that the legacy of \$1,000 to his sister, and the residue to himself, constitutes a satisfaction of all claims that his sister would have against Richard Watson's estate for the balance in Richard Watson's hands from the estate of Thomas Watson.

There are several conflicting presumptions which have to be considered in dealing with this matter. There is in this class of cases a leaning against the presumption of satisfaction, and the Court lays hold of minute circumstances to take a case out of the rule: *White & Tudor's L. C. in Eq.*, 2nd ed., vol. 2, p. 393, and cases cited.

The absence from the will of any direction to pay debts and legacies furnishes an argument in favour of the executor's contention: *Smith's Principles of Equity*, 3rd ed., p. 526.

All the text books state that it appears that a legacy given by the will of a parent to a child is not upon any different footing from that of a legacy by any other person as a satisfaction of a debt, not being a portion. . . .

[Reference to *Tolson v. Collins*, 4 Ves. 482.]

The testator will have dealt pretty equally with his two children if I hold that Frances Josephine is entitled both to her legacy under this will and to her share of her uncle's estate.

The circumstances which I think will take this bequest out of the general rule are that the present legacy is not payable for a year, but Frances Josephine can, without delay,