

which was a legacy in the strict sense of the term, but not a "legacy" within the meaning of the will. The will constituted its own dictionary; "legacy" meant "pecuniary legacy" and did not mean or include the "value of any specific legacy."

The testator contemplated a simple thing, "a distribution in proportion to the legacies," and not a valuation or inquiry as to the value of benefits conferred.

This answered a third contention, that the value of a claim or debt forgiven or reduced must be regarded as a legacy. In strict use of language, perhaps so, but not in the sense used by this testator. See for example the provision for James Fulton: "In addition to the payment to the said D. of his said legacy of one thousand dollars," the executors are "not to collect from him any sum he may now owe me on any account whatsoever, and to deliver up to him all promissory notes," &c.

So, where the executors are directed to pay the mortgage they owe, "I hereby releasing them from payment of any other sum or claim which I may now have against them in any way whatsoever secured," it is not possible that he meant an inquiry to be made as to the amount of any possible claim that might in that way be forgiven, for the purpose of distributing the possible balance that might remain.

The order should, therefore, direct distribution pro rata among the pecuniary legatees who are nephews or nieces and survived the niece Eliza, pro rata in proportion to the pecuniary legacies.

The costs should be paid out of the fund, but there was no reason why the executors should have two solicitors and two counsel, one representing them as executors and the other as individuals. They should be allowed only one bill, but the fee should cover the presentation of the case from the standpoint of the belligerent and not of the neutral.

MIDDLETON, J.

DECEMBER 12TH, 1918.

RE SCATCHERD.

Distribution of Estates—Insolvent Estate of Intestate—Creditors' Claims—Payment Pari Passu whether Creditors Domestic or Foreign.

Motion by the domestic administrator of the estate of one Scatcherd, deceased, for an order determining a question arising on the administration of the assets of the estate.