Mr Shillaber — 954

I have examined Daniel Silsby's will, with the facts agreed upon by the counsel on both sides: and I have considered the two questions proposed by you viz

1. Whether, in case there should be a deficiency of assets arising from the waste of the Executor and Trustee, the loss should fall wholly on the residuary legatee?
2. Whether the estate in Georgia is liable to the annuities of the Testator's two sisters? —

As to the first question, there could be no doubt, if the Testator had not left sufficient assets — but as he did, and the deficiency is owing the waste of the executor and Trustee, must the loss still fall on the residuary legatee? It is my opinion, that the loss in this last case must be borne by the residuary legatee, and that the law makes no distinction in the two cases. The case of Marsh vs Evans is directly in point, which ~~book~~ case your counsel in Georgia undoubtly has; it is reported 1 P. Williams 668.

2. The Estate in Georgia is in my opinion liable as a fund ~~for~~ for the Sisters annuities. The objection I suppose arises from their declining to consent that the debt to Bainbridge & Co. should be called in, and otherwise secured.

J

Mr Parsons' Opinion

Parsons Opinion & Letter Ackmore & Bills Bonds of Silsby

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MdHS 1974 [1112-954]