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Title: Legal Opinion of Roger B. Taney on A. Riddell's Will

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At the request of the Trustees of Mrs. Abercrombie appointed by the will and codicils of A. Bridell of London I have carefully examined the will and codicils aforesaid in order to ascertain whether Mr. Abercrombie is entitled to demand the share of the residue bequeathed to his wife, and the £1000 also bequeathed to her after the death of Mrs. Shaw.

As regards the legacy of £5000 there is no controversy. It is very clear that this sum is subject to the trusts mentioned in the will for the separate use of Mrs. Abercrombie during her life & for her children after her death.

But the intention of the testator in relation to the residue & the legacy of £2000, is unfortunately involved in some ambiguity. - In the will the share of the residue is given to her unconditionally & in such manner as would give to her ~~the~~ ^{for her separate use to be disposed of as she pleased.} the right to receive it. - And in the first codicil the same intention is still clearly manifested by confining the power of the trustees to the legacy of five thousand pounds. - But in the last codicil

The testator appears to have lost sight of the different dispositions he had made of the £5000 - and the share of the residue. He gives to Mrs. Abercrombie the legacy of £1000 upon the same terms and conditions annexed to the £5000 & to the share of the residue & they having been given in different ways, he leaves it doubtful in this part of the codicil whether it is to go to the trustees or to the husband. In a subsequent clause however of the same codicil in which he adds Mr. Campbell & Mr. Williamson to the trustees before appointed it is quite obvious that he intended that both of the legacies and the share of the residue also should go into the trust fund and be subject to the control of the trustees - and that Mrs. Abercrombie should have a life interest in the whole of this trust fund and her children the entire amount after her death - or as he terms it in fee. The last codicil must prevail over all previous dispositions wherever there is any inconsistency between them.

In my opinion therefore Mrs. Abercrombie is not entitled either to the legacy of £1000, nor to the share of the residue bequeathed to his wife - and both

of these funds belong to the trust fund and are to
be held and disposed of by the trustees in the same
manner with the legacy of £5000. - But I must
acknowledge that the question is not free from
difficulty. - Under such circumstances the trustees
must await the decision of the Court and what
ever that may be they will be safe in obeying
it. -

R. B. Toney

Baltimore

May 22. 1829