

SURROGATE'S COURT, CHAUTAUQUA COUNTY.

In the matter of the estate
of
EMMA K. TOURGEE, Deceased.

:
:
: **OBJECTIONS**
: to
: ~~Trustee's~~ Account.
:

TO THE SURROGATE OF THE COUNTY OF CHAUTAUQUA:

vs. The Tuesday Club Library, of Mayville, New

York, a domestic corporation of the State of New York, do

object to the so-called "account" rendered by Elizabeth S.

Warner, and Richmond Hoos of their proceedings as executors

of the will of Emma K. Tourgee, late of the village of May-

ville, N. Y., which "account" was filed in the Surrogate's

Court of the county of Chautauqua on the 19th day of Feb-

ruary, 1917, and we do object to the allowance thereof,

for the reasons hereinafter set out under the captions,

"FIRST", "SECOND", "THIRD", "FOURTH" and

"FIFTH", which reasons, for and grounds of objection

are expressly alleged upon information and belief, and we

do demand that said account be so amended, fixed and de-

termined that it shall show the true condition and value

of the said estate, and the true value of all property

received by said executors, and the legal expenditures and

credits of said executors, and the legal balance with which

said executors are chargeable and which should be distributed

in accordance with the terms of the said testatrix' last

will and testament; together with such further and additional

relief as may be proper.

--FIRST.--

We object to said "account" and to the allowance thereof for the reason, and on the ground, that said executors have not therein charged themselves with all the property and assets of said estate which have come into their hands as executors.

--SECOND.--

We object to said "account" and to the allowance thereof for the reason, and on the ground, that said executors have not therein charged themselves with the true and fair market value of property set forth as coming into their hands, but have charged themselves with values less than the market value, and in some instances, with values which are patently absurd.

--THIRD.--

We object to said "account" and to the allowance thereof for the reason, and on the ground, that said executors have therein credited themselves with certain disbursements, payments to creditors and expenses of administration which were not, and are not, a legal charge against the estate.

--FOURTH.--

We object to the said "account" and to the allowance thereof, for the reason, and on the ground, that said "account" (and the inventory and schedules therein referred to and made a part of such "account") are so incompletely, erroneously and improperly drawn, and the items of property therein and the items of disbursements, etc., credited, are so improperly and insufficiently described, that neither the court nor the residuary legatees, nor other persons interested in the estate are able to correctly ascertain the nature, identity or value of some of such items of property, nor the nature, identity, or justice of some of such items of disbursements, etc.

--FIFTH--

We object to said "account" and to the allowance thereof for the reason, and on the ground that all the proceedings since the death of Mrs. Tourgee show a tendency (possibly unintentional, but none the less improper) to minimize the net amount of this estate, to the detriment of the residuary legatees and the benefit of the life tenant.

In support of the last statement, and as additional reasons for, and grounds of, objection, we call attention to the following facts, which (with others) we expect to bring out at the hearing:

1. There has been expended on the "Brooks Lot", (which is a small building, the income of which goes to the Tuesday Club Library after deducting expenses) an amount entirely out of proportion to the rent received, and apparently in part, at least, for extraordinary and unnecessary betterments. The "account" shows that this property rents for about \$199.00 per year, (\$175.00 for about 14 months), and that the executors found it necessary to expend, -- for repairs, \$82.62; for insurance, \$3.60; for taxes, \$27.29. Of the repairs, \$29.12 was expended for a storm house! When there was already a storm house stored away waiting to be locked up and used!! There is also included an item for grading, \$13.50, which was not necessary for the protection of this property. This makes a total for extraordinary repairs of \$42.51, or over half of the repair bill. Whether any of the rest is for extraordinary repairs does not appear. Nor do we deem it advisable, at the present high cost of material and labor, to make any more extraordinary repairs, and we deem it best that the executors turn over to the Trustees of the Tuesday Club Library the balance which they now have in their hands, in accordance with the direction

contained in the last part of the ninth bequest of said decedent's will, "...and after deducting from the rents, taxes, insurance and necessary repairs on the property, to pay annually the net proceeds of such rents to the Tuesday Club Library of Mayville, N. Y."

2. The final statement, schedule B, has listed a lounge, spread and pillow, now claimed by Miss Hall. This is now credited the executors at a higher value than the inventory.

3. As present trustees of the Library, we desire to so perform our duty that our successors will be able to identify the property forming the residuary estate, and in which the library is especially interested. We believe that for this reason, as well as to assist the determination of the value thereof, the descriptions of the personal property should be more in detail,--- For instance, 7 rugs, listed at \$2.50 (for the seven), should be listed with the trade name or other designating term, and the size of each be stated, together with any circumstances which might increase their value.

Likewise we ask that the two picture frames listed as "Two sterling Picture Frames, \$10.00" be more closely identified, and be stated to contain pictures of Judge Tourges and Ans Tourges.

Among the property which has been added to the inventory since the proceeding was started are two tables, one described as "small", and the other as "shaky", with a total valuation given of \$8.00. These, like the rugs above mentioned, should be more accurately described. We are informed that they are each valuable, one being a solid cherry and the other an inlaid one.

4. It has been reported, and we understand that one of the executors admits, that there was found among the effects of

the decedant a note, the maker of which was one of the life tenants and the payee Mrs. Tourgee. This note we are unable to find anywhere in the obscurity of the "account", inventory, or schedule. It should certainly have been listed and submitted, both for the information of the court and the other legatees, that an opportunity might be given for the collection thereof prior to the closing of the estate. This fact alone, if as reported, shows such heedlessness or forgetfulness on the part of either the appraisers, the executors, or their attorney, as to deprive the so-called "inventory" and so-called "account" of any weight or value as a guide to the court and as to imperatively require another set of dis-interested appraisers.

5. In said "account", (Schedule "G", subd. 3.) said executors give an explanation as to Judge Tourgee's works and value them at \$5.00. We object to the description and contend that said books should be listed, the bindings and condition set out, the fact that they are the author's own set mentioned, and the facts tending to increase their value be thereby shown. We object to the value thereon placed. Certainly these books are worth more than a twenty-five cent novel of the present day. We object to the theory therein set forth that the said executors can credit themselves with the value of these books by turning them over to Mr. Host. They are not book plates and unsold copies, but are part of Judge Tourgee's library and as such pass to the residuary estate.

6. We object to practically all the items of said "Inventory" (which are carried into said "account") marked "See in said Inventory", with the exception of the Bank deposit, stock and bonds, as to which we assume the executors have correctly informed themselves. These items are nearly all

inserted at what we consider an unreasonably low valuation. For instance, bedding for $\frac{1}{2}$ iron bed, including pillows, 80¢; 7, $\frac{1}{2}$ size sectional book cases, oak, \$3.50; 6 full size sectional book cases, oak, \$4.00 (we are informed that these are an exceptionally fine quality of case); 111 pieces sterling, \$40.65 (63 pieces, some apparently heavy, and fan after dinner coffee set, including tray, sterling set, tray, plated); China, crockery and glass ware, \$13.25; Gate Screens, and two pair tongs (brass), \$1.00; 1 two piece bedroom set; solid mahogany, including one bed, one bureau, marble top, \$40.00; and 1 oak bed room suit, \$5.00.

There are inserted as credits in said account a large number of debts and disbursements paid by the executor. Many of these are undoubtedly proper. Others are not sufficiently described to show whether proper or improper. Others bear the simple notation, "paid account", "balance", or similar words which indicate that they may have been improper charges. Others are bills which we are informed the testatrix had refused to pay during her lifetime. There is also a large bill for out-of-pocket expenses of administration, and another for attorney's fees and disbursements. Doubtless just and well deserved, but entirely unitemized. In view of the facts, we are obliged to object to all payments so credited and hereby demand that a voucher be prepared and filed for each payment or disbursement of over

\$5.00.

Mary S. Green, Attorney for objector,
Office and post-office address,
101 Broadway, New York City,
New York.

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County of Chautauqua,
State of New York. ss.

Mary E. Swift, being duly sworn, deposes and says that she is the Chairman of the Board of Trustees of the Tuesday Club Library of Mayville, New York, and is the ^{chief} ~~only~~ executive officer of the said Tuesday Club Library of Mayville, New York; that said Tuesday Club Library of Mayville, New York, is a domestic corporation, organized under the laws of the State of New York; that the foregoing objection is true to the knowledge of this deponent, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters she believes it to be true; that the reason why this verification is not made by the said corporation is that the said corporation is a domestic corporation; that this deponent is an officer of the same, to wit, Chairman of the Board of Trustees, and is acquainted with the facts; that the grounds for her belief and the sources of her information are as follows, to wit: Conversations had with the parties hereto and with their attorneys; conversations had with third persons residing in the village and neighborhood and familiar with the facts; inspections of the account and inventory and other papers in this proceeding and inspections of the physical property left by said decedant.

Sworn to before me this 29th
day of March, 1917.

Mary E. Swift
Mary E. Swift
Notary Public.

UNITED STATES GOVERNMENT

Department of the Interior

General Land Office

Receipt for Account

of

