

Wed 15 Nov

~~Case~~

~~Case~~

27

~~For the opinion of~~

~~Mr. Alexander~~

~~2 Quas~~

Philipz Stone
for

Lumberston

Chester

Case.

The late Frederick Philips of Philipsborough in the Province of New York in America was one of those Loyalists whose Property in America was confiscated. He came to England & died before the claims of the American Loyalists were liquidated having made no Will his Eldest Son Frederick Philips received the whole money allowed by Government - Frederick Philips the Son is lately dead having made his Will & appointed his widow Henrietta Philips his sole Executrix: He has left a Son & Daughter both Infants & has made his Son residuary Legatee of his real and personal Estate.

It does not appear he administered to his Father.

Frederick Philips the Son received about £40,000 from Government, £8,000 of which he invested in the Funds in the names of Trustees to pay the Interest unto his Mother & Brothers & Sisters & the greatest part of the Remainder he invested in the purchase of an Estate in Warwickshire - It does not appear that any further provision was made by Fred^l. Philips the Son for the Family at the time he received the Government money than the investment of the £8,000 but the mother has an Annuity allowed her by Government as the widow of her Husband who held a Commission in the Army of American Loyalists.

In the year 1796 Mr. Fred. Philips the Son was extremely ill & the Friends of his Family conceived as he had received the whole of the money allowed by Government he ought to make some certain Provision for his Mother & his Brothers & Sisters - This he was very willing to do and accordingly on the 31st Oct^r 1796 the following arrangement was made & carried into Execution by proper Instruments;

He charged upon his Warwickshire State an Annuity of £300 to his mother for her life & to a Brother whose health was bad £50 a year for his life -

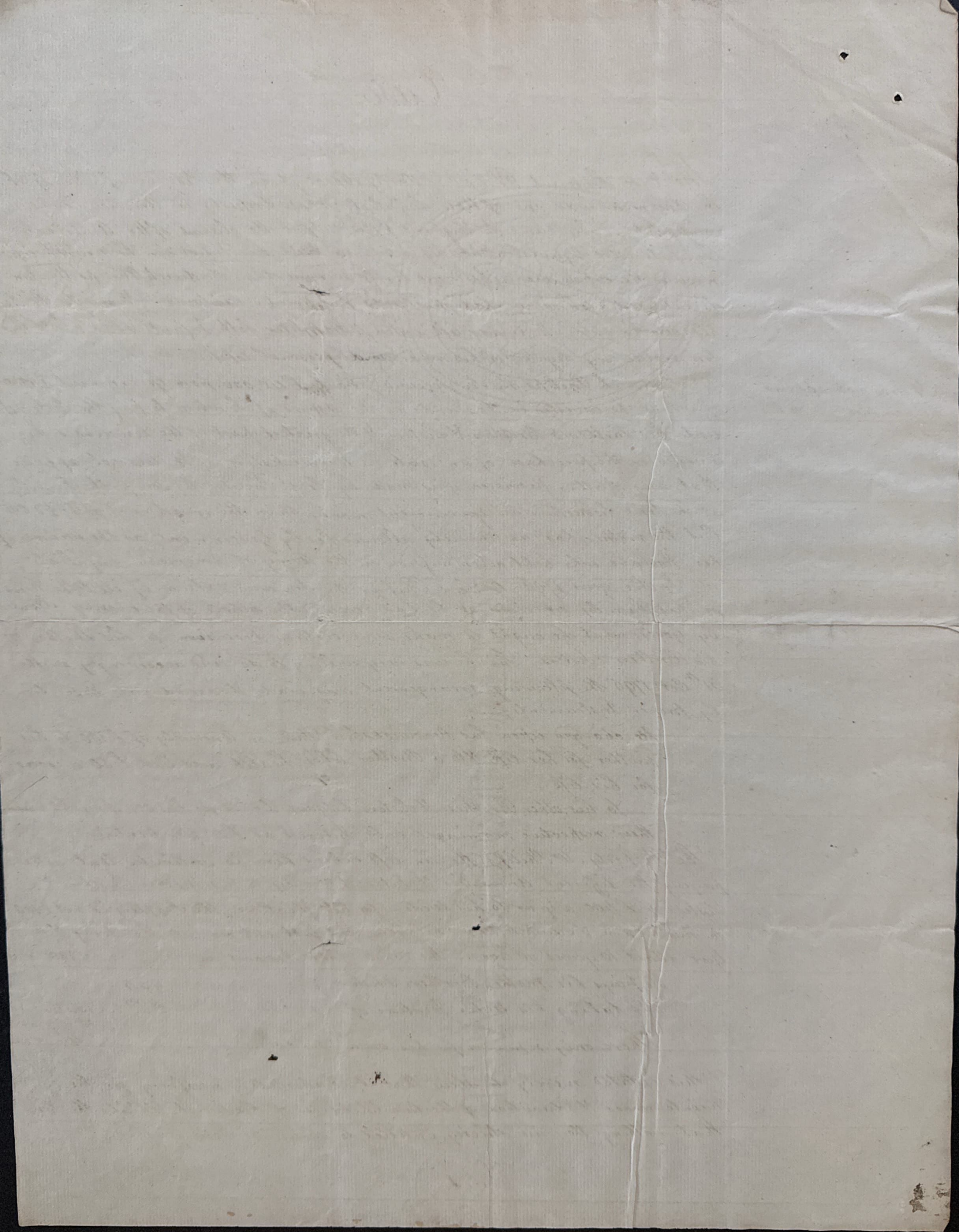
To his other Brothers & Sisters he gave Bonds for £3,000 payable upon their respective marriages with Interest at £4 per Centum -

The Property Mr. Philips the Son left behind him is so limited, that after paying the different Annuities & Interest money to his Mother Brothers & Sisters & £400 a year to his widow for her jointure, the Surplus is not £100 to maintain & educate two Children, one just entered into the Army & a Girl about 10 years of age - The whole of the Income is ——— 1380-0-0

He pays his Mother, Brothers & Sisters,	934	
and taking his wife's Jointure of	400	1334-0-0

There only remains for his own Children	46-0-0
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This is stated merely to shew that it is absolutely necessary for the Maintenances & Education of the two Children of Frederick Philips the Son that nothing they are strictly entitled to should be relinquished -



At the time Mr Philips the Father left America several Merchants & others were indebted to him in large Sums of Money due on Mortgage Bonds Notes & otherwise - These Debts have lately undergone Investigation & the Commissioners appointed to ascertain the validity of Securities & the justness of Debts in America have lately declared that £6000 was due to Mr Philips the Father when he left America & a Dividend of £20 per Centum has been lately paid to Mortier Walton Esq of New York who was empowered by Mrs Philips the Mother, Frederick the Son & all the Brothers & Sisters & their Husbands to collect & receive all Debts "due to the S^r Fred. Philips (the Father) at the time of his decease or which had or should become due since that period to his Representatives". The Money received by Mr Walton has been remitted to England & the following is the Division proposed by Mrs Philips the Mother;

1808 Oct 2	To Commission charged by American Agent	60-0-0	1808 Oct 2	By Cash received from Comm ^r	1200-0-0
	Do by Mr Maddington English Agent	60-0-0			
	Postage	2-10-0			
	Mrs Philips the Mother one third of net receipts	354-3-4			
	Seven Children, including one share for the Infant son of the last Fred Philips	718-6-8			
		<u>£ 1200-0-0</u>			<u>£ 1200-0-0</u>

$$102 = 12.4\%$$

$$718.6 = 7\%$$

To the above Division of the £1200 received from America the Executrix of Fred. Philips the Son objects - She conceives that Mr Philips the Son having provided for his Family most liberally, as appears from the foregoing Statement, from his own Property (that is, from the Property given him by Government for his Losses in America) they can have no claim to any part of the Property of Frederick Philips the Father which may be recovered, so long as they receive so large a portion of the Son's actual Property - That they have all been material sufferers is admitted, but calculating only on the Property which Fred. Philips the Son died possessed of, & his Family participating in that property in so large a degree, it is conceived that they can have no further claim on any Property of Frederick Philips the Father which may by possibility be recovered.

On the other hand the Family conceive themselves (as Widow & next of kin of Frederick Philips the Father) to be fairly entitled to participate in the £1200 received from America, it being part of the personal Estate of Fred. Philips the Father due at the time of his decease, and he having died intestate.

At the time this Provision was made there was no expectation of any further money being received from Government or from America - they consider themselves entitled to the distribution of the Property stated in the foregoing account, especially as the Provision made for them by Frederick Philips the Son was not made in lieu of all claims they might have on

the Property of Frederick Philips the Father -

Your opinion however is desired

Whether you think the Family of Fred^d Philips the Father are entitled to receive the £1200 in the Proportions claimed, they receiving the annual Sums above stated from the Property of Frederick the Son?

Or

Whether, Frederick the Son having made so liberal a Provision for his Family out of his own Property, his Excutrix is not entitled to retain the whole of the Debts of Fred. the Father which can be recovered from America?

I am of opinion that the 1200 being the personal estate of Fred. Philips the Father ought to be distributed in the manner ~~proposed~~ proposed by his Widow, except that the share allotted to the Grandson, that is, the eldest son of Frederick Philips the Son sh^d be considered as the personal estate of Frederick Philips the Son & applied accordingly.

I ~~am~~ on no ground for considering the provisions made by Frederick the Son as a satisfaction for the outstanding debts. I presume that the allowance made to him by Government was made in respect of what ~~was~~ was his Father's estate at his death. If so, the allowance sh^d have been granted to the persons intitled to that estate in the proportion in which they were respectively intitled to it. If Mr. Fred. was permitted alone to represent that estate and to receive the money, it ~~was~~ ^{is} sufficient account for the voluntary provisions. I know do not think it would be necessary to give any account of them. - In order to intitle the estate of Fred. the Son to ~~the allowance it would be sufficient~~ the outstanding debts it would be necessary that it had been so expressly stipulated at the time of the voluntary provisions.

Wm Alexander
Lincoln Inn
16 Nov. 1808.



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