

GIBSON, et AL,)	IN THE
-VS-)	SUPERIOR COURT
JOHN E. WEYLER, Warden)	(PART TWO)
of the Maryland Peni-)	BEFORE
tentiary.)	JUDGE NILES.

Baltimore, February 17, 1909.

The Plaintiffs offer¹ in evidence the original Land Record of the Superior Court of Baltimore City, Liber W. G. 212, folio 52, containing the record of the deed from Thomas King Carroll and Juliana Carroll, his wife, to Robert J. Henry as follows:

THIS INSTRUMENT, Made this 19th day of May, in the year of Our Lord eighteen hundred and thirty-one, between Thomas K. Carroll and Juliana Carroll, his wife, of Somerset County, in the State of Maryland, of the one part, and Robert J. Henry of the same County and State, of the other part.

WITNESSETH: That the said Thomas J. Carroll and Juliana Carroll, his wife, for and in consideration of the sum of Five dollars, to them in hand paid, before the execu-

tion hereof, and in order to carry into effect an arrangement heretofore made, between the parties for the division and partition of certain lots of ground lying within the present limits of the City of Baltimore, they, the said Thomas K. Carroll and Juliana Carroll, his wife, have bargained, sold, aliened, released, enfeoffed and confirmed, and by these presents do sell, alien, release, enfeoff and confirm unto the said Robert J. Henry, his heirs and assigns, all that piece or parcel of ground near to the City of Baltimore, and within its present limits as aforesaid, contained within the following metes and bounds, viz:

Beginning for the same at the northeast corner of East Bager and Great Constitution Streets on the East side of Jones' Falls and running thence North on the East line of Great Constitution Street, one hundred and eighty-five feet, more or less, to the South line of Josias Pennington's property, formerly an apple orchard, thence eastwardly along said Pennington's line, fifty-four feet to the garden wall of the late Doctor Cosmo G. Stevenson, thence south twenty-one and a half degrees East along said wall, one hundred and sixty-five feet to the corner of a fence as now standing, thence eastwardly, with said fence, thirty feet, and thence

Southeasterly fifty-five feet to the North line of East Eager Street aforesaid, and thence West along the north line of said street, one hundred and sixty-five feet to the place of beginning.

Also all that lot or parcel of ground, beginning for the same at a stone placed at the southeast corner of Great Constitution and East Eager Streets, aforesaid, and running thence South two hundred and twenty-nine feet on the East side of Great Constitution Street ; thence easterly one hundred and thirty-four feet along a line which being extended to Forrest, formerly Nelson Street, would strike the West side of said street at a distance of sixty-four feet nine inches northwardly from the northwest intersection of Forrest and Truxton Streets as lately established by the Baltimore City Commissioners, thence northwardly, parallel to and at a distance of one hundred and forty feet from Forrest Street, one hundred and fifty-six feet to the northwest corner of Henry Ewing's lot, thence eastwardly on the North line of said Ewing's lot, one hundred and forty feet to Forrest Street, thence northwardly on the West side of Forrest Street, thirty-three feet and three inches, more or less, to its intersection with East Eager Street, and thence

on the south side of East Eager Street two hundred and forty-one feet to the place of beginning ;

Also all that lot or parcel of ground beginning for the same at the southeast corner of Forrest and East Eager Streets, and running thence southerly on the East side of Forrest Street, twenty-four feet, more or less, to the south line of a street formerly laid out by the residuary devisees of Doctor Henry Stevenson, called Parnassus Hill Street, it being also the North line of Property now, or lately belonging to the estate of Warter, and running thence easterly along said line to the York Road or Avenue, and thence northerly on said road or avenue, supposed to be a few inches, to the Southwest corner of East Eager Street and said road or avenue, thence on the south side of East Eager Street westwardly, to the beginning. (The said three several parcels of ground being laid down on a plat hereto subjoined and contained within the yellow shaded lines) ;

Together with the appurtenances and advantages to the same belonging or in anywise appertaining, and all the estate, right, title and claim, legal and equitable of the

said Thomas K. Carroll and Juliana Carroll, therein and thereto.

To Have and To Hold the said three several lots or parcels of ground and premises unto him, the said Robert J. Henry, his heirs and assigns forever to and for his and their use and behoof, and for no other intent or use or purpose whatsoever.

And the said Thomas K. Carroll and Juliana for themselves and their heirs, do hereby covenant and agree to and with the said Robert J. Henry, his heirs and assigns, that they, the said Thomas K. Carroll and Juliana Carroll and their heirs, the said several lots or parcels of ground and premises hereby bargained and sold or intended so to be unto the said Robert J. Henry and his heirs and assigns against themselves the said Thomas K. Carroll and Juliana Carroll, and their heirs and against all and every person or persons claiming or to claim by, from or under them, or either of them, their, or either of their heirs, shall and will warrant, and forever defend.

IN WITNESS WHEREOF, the said Thomas K. Carroll and Juliana Carroll, his wife, have hereunto set their hands and seals on the day and year first above written.

THOMAS KING CARROLL (SEAL)

JULIANA CARROLL (SEAL).

Signed, sealed and delivered

in presence of

THOS. ROBERTSON,

WM. H. CURTIS.

STATE OF MARYLAND, SOMERSET COUNTY, TO WIT:

On the 19th day of May, in the year of Our Lord,
one thousand eight hundred and thirty-one, personally ap-
pears Thomas King Carroll of Somerset County, being the gran-
tor named in the above instrument, before us, two Justices
of the Peace, and acknowledges the above instrument of
writing to be his act and deed, and the lands and premises
therein mentioned and thereby bargained and sold, to be the
right and estate of the within named Robert J. Henry party

us as aforesaid, and acknowledges the said deed or instrument of writing to be her act and deed, and the lands and premises therein mentioned to be the right and estate of the within named Robert J. Henry, his heirs and assigns forever ; and the said Juliana Carroll being by us privately ^{examined} apart from and out of the hearing of her husband, acknowledges that she doth make her acknowledgment of the same willingly and freely and without being induced thereto by fear or threats of or ill-usage by her husband, or fear of his displeasure. Taken and certified the day and year above written.

THOS. ROBERTSON,

WM. H. CURTIS.

MARYLAND, SOMERSET COUNTY, To WIT:

I HEREBY CERTIFY that Thomas Robertson and William H. Curtis, Esquires, before whom the foregoing acknowledgment appears to have been made, were at the time of taking said acknowledgment two of the Justices of the Peace of the said State in and for Somerset County aforesaid, duly commissioned and sworn.

IN TESTIMONY WHEREOF I hereto set my hand and affix the seal of said County this 20th day of May, Anno Domini

1831.

GEO. HANBY,

Clk. Sont. Coty. Court.

(SEAL'S)
(PLACE.)

Received to be recorded the 28th day of May, 1901,
at a quarter before eleven o'clock A. M. ; same day re-
corded and examined.

Pr. WM. GIBSON, Clk.

Annexed to this deed in the records of Baltimore
City, was a plat which had delineated upon it Great Con-
stitution Street which shows that the second parcel conveyed
by this deed, abutts on the whole of the East side of Con-
stitution Street, which is claimed in this case.)

The plaintiffs also offer^{ed} in evidence from the
original Land Records in the Office of the Clerk of the
Superior Court of Baltimore City, Liber W. G., No. 213,
folio 642, in which appears a record of the following deed
from Thomas K. Carroll and Juliana Carroll, to James Howard.

THIS INDENTURE made this 13th day of July, in the year of Our Lord Eighteen hundred and Thirty-one, between Thomas K. Carroll and Juliana Carroll, his wife, of Somerset County in the State of Maryland, of the one part, and James Howard of the City of Baltimore in the State aforesaid, of the other part.

WITNESSETH: That the said Thomas K. Carroll and Juliana Carroll for and in consideration of the sum of Eighteen Hundred Dollars, to them in hand paid by the said James at or before the sealing and delivery of these presents, the receipt whereof, they do hereby acknowledge, have bargained, sold, aliened, released, enfeoffed and confirmed, and by these presents do bargain, sell, alien, release, enfeoff and confirm unto the said James Howard, his heirs and assigns, forever, all those several lots or parcels of ground, being part of the real estate of Doctor Henry Stevenson, deceased, being within the present limits of the City of Baltimore on the East side of Jones' Falls, beginning for the whole of said lots on the South side of East Eager Street at a distance of twenty-eight feet from the Southwest corner of East Eager and Great Constitution Streets and running thence West one hundred and thirteen feet, more or

less to the West line of said Doctor Henry Stevenson's (deceased) ground, along the South line of East Eager Street, thence southerly along the said West line of the said Doctor Henry Stevenson's ground, two hundred and eighteen feet, more or less to a stone marked H. S. No. 6, thence southeasterly forty-three feet, more or less, to the North side of Truxton Street, thence Easterly, on the said North side of Truxton Street, twenty-two feet more or less, and thence Easterly to the West side of Great Constitution Street, at a point eleven feet North from the Northwest corner of Truxton Street and Great Constitution Street, thence North along the West side of Great Constitution Street one hundred and thirty-nine feet, thence West, parallel to East Eager Street, twenty-eight feet, and thence North by a straight line, to the beginning, agreeable to a small plat of said lots or parcels of ground hereunto annexed.

Together with all and singular the rights, privileges and appurtenances thereunto belonging, or in anywise appertaining.

To Have And To Hold the said Several Lots and

less to the West line of said Doctor Henry Stevenson's

unto him, the said James Howard, his heirs and assigns, forever, to and for his and their only use and behoof and for no other intent or purpose whatsoever.

IN TESTIMONY WHEREOF the said Thomas K. Carroll and Juliana Carroll have hereunto set their hands and seals on the day and year aforesaid.

THOMAS KING CARROLL (SEAL)

JULIANA CARROLL (SEAL)

Signed, Sealed and Delivered in

Presence of

THOS. ROBERTSON,

THEODORE G. DASHIELL.

STATE OF MARYLAND, SOMERSET COUNTY, SCT:

On this 13th day of July, 1831, personally appeared before us the subscribers, two Justices of the Peace for the County aforesaid, the above named Thomas K. Carroll and acknowledged the foregoing instrument of writing as his act and deed for the purposes therein mentioned, and at the same time also came Juliana Carroll, the other party grantor, wife of the said Thomas K. Carroll, and acknowledged the said in-

strument of writing to be her act and deed, for the purposes therein mentioned ; And the said Juliana Carroll being by us first privately examined, apart from and out of the hearing of her said husband, did declare that she made her said acknowledgment willingly and freely without being induced thereto by fear or threats of ill-usage by her said husband or through fear of his displeasure.

Acknowledged before Thos. Robertson and Theodore G. Dashiell.

MARYLAND, SOMERSET COUNTY, TO WIT:

I HEREBY CERTIFY that Thomas Robertson and Theodore G. Dashiell gentlemen before whom the above acknowledgments were made, and whose signatures appear thereto, were at the time of the making and signing the same, justices of the peace of the State of Maryland, in and for Somerset County, duly commissioned and sworn.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of the Somerset County Court, this 19th day of July, 1831.

(Seal's Place)

GEO. HANDY,

Clk. Somt. Cty. Court

Received to be recorded the 30th day of August,
1831, at half past eleven o'clock A. M. Same day recorded
and examined.

p. Wm. Gibson,

Clk.

It is agreed that the exhibit and use
~~either party may get a copy of the plat referred to~~
in the Court of Appeals as fully as if the same were incorporated
in above deeds, ~~and put same in the record.~~

Plaintiff offers in evidence from the office of the
Clerk of the Superior Court of Baltimore City, original Land
Record, Liber W. G., No. 214, folio 95, wherein is recorded
Deed of Thomas K. Carroll and Juliana Carroll to Henry S.
Coulter.

THIS INSTRUMENT, made this 13th day of July, in the
year of Our Lord 1831, between Thomas K. Carroll and Juliana
Carroll, his wife, of Somerset County, in the State of Mary-
land of the one part, and Henry S. Coulter of the City of
Baltimore in said State, of the other part.

WHEREAS Doctor Henry Stevenson, late of Baltimore
County, deceased, by his last will and testament, did devise
a lot of ground of thirty feet front to the said Henry S.

Coulter if he should attain the age of twenty-one years, and did direct that the same should be laid off adjoining the lots devised to his said testator's grandsons ; and

WHEREAS, it has been ascertained that if the directions of the said will were strictly and literally pursued, the lot of ground so to be laid off for said Henry S. Coulter would fall within the lines of Great Constitution Street as the same has been laid off and established by the commissions appointed to lay off the streets, lanes and alleys within the extended limits of the City of Baltimore, and would thus become of little or no value to the said devisee ; and

WHEREAS, it has been agreed that the lot of ground hereinafter conveyed and described should be given and conveyed to the said Henry S. Coulter, and be received and taken by him in lieu of the lot contemplated by the will of the said testator.

NOW, THIS INDENTURE WITNESSETH: That the said Thomas K. Carroll and Julianna, his wife, for and in consideration of the premises, and of the sum of Five Dollars to them in hand paid by the said Henry S. Coulter, the receipt whereof they

hereby acknowledge, have bargained, sold, aliened, released, enfeoffed and confirmed and by these presents do bargain, sell, alien, release, enfeoff and confirm unto the said Henry S. Coulter, his heirs and assigns, forever, all that lot or parcel of ground lying within the present limits of the City of Baltimore, on the East side of Jones' Falls and contained

hereby acknowledge, have bargained, sold, aliened, released, enfeoffed and confirmed and by these presents do bargain,

fit and for no other intent or purpose whatsoever.

IN WITNESS WHEREOF the said Thomas K. Carroll and
Juliana Carroll have hereunto set their hands and seals
on the day and year first above written.

THOMAS KING CARROLL (SEAL)

JULIANA CARROLL (SEAL)

Signed, Sealed and Delivered

in presence of

THOS. ROBERTSON,

THEODORE G. DASHIELL.

STATE OF MARYLAND, SOMERSET COUNTY, TO WIT:

On the 13th day of July, 1831, personally appeared
before the subscribers, two justices of the peace for the
County aforesaid, the above named Thomas K. Carroll and
acknowledged the foregoing instrument of writing to be his
act and deed, for the purposes therein mentioned, and at the
same time also came Juliana Carroll, the other party grantor,
wife of said Thomas K. Carroll, and acknowledged the said
instrument of writing to be her act and deed for the purposes
therein mentioned, and the said Juliana Carroll being by us
privately examined, apart from and out of the hearing of her

said husband, did declare that she made her said acknowledgment willingly and freely without being induced thereto by fear or threats of or ill-usage by her said husband, or through fear of his displeasure.

Acknowledged before Thomas Robertson and Theodore G. Dashiell.

MARYLAND, SOMERSET COUNTY, TO WIT:

I HEREBY CERTIFY, that Thomas Robertson and Theodore G. Dashiell, gentlemen before whom the within acknowledgments were made, and whose signatures appear thereto, were at the time of the making and signing the same, justices of the peace of the State of Maryland, in and for Somerset County, duly commissioned and sworn.

IN TESTIMONY WHEREOF I have hereunto set my hand and
Court
affixed the seal of Somerset County, this 19th day of July,
1831.

GEO. HANLY

(Seal's Place).

Clk. Somt. Cty. Court.

said husband. did declare that she made her said acknowledg-

fifteen minutes past twelve P. M.

The same day recorded and examined.

Pr. Wm. GIBSON, Clk.

(Here insert C)

C
~~NOTES AS TO CHANGES DESIRED IN
EXCEPTION.~~

On page 8 of "Exhibit A" is the statement
"Annexed to this deed in the records of Baltimore City,
was plat, etc." I think this should be cut out here.

On page 14 of "Exhibit A" there should be inserted
Annexed to the three deeds above mentioned in the afore-
said Records are plats which have delineated upon them Great Con-
stitution Street, or what is spoken of in this case as Constitution
Street or Clifton Place, and which shows that the second parcel of
the lands conveyed by the first of the three aforesaid deeds abuts
on the whole of the east side of that part of Great Constitution
Street, or Constitution Street or Clifton Place, which is claimed
in this case, and which plats also show that the lands conveyed by
the second and third of the three aforesaid deeds abuts on the whole
of the west side of that part of Great Constitution Street, or
Constitution Street or Clifton Place which is claimed in this case,
and it is agreed that either party may exhibit and use the aforesaid
plats or certified copies thereof, *and also all plats filed with the pleadings* in the Court of Appeals as fully
as if the same were incorporated in the above deeds and in the record

It is admitted by the parties hereto that the Directors of the Maryland Penitentiary acquired between the years 1891 and 1896 all the land and rights conveyed by Thomas King Carroll and Julianna Carroll, his wife, by the three deeds just offered in evidence so far as said lands and rights abut on or relate to the lands sought to be recovered in this case.

It is agreed that Ordinance 111 approved October 17, 1892, may be read in evidence from the printed volume, in this Court or in any other Court to which this cause may be taken by appropriate proceedings as fully as if the same were incorporated in the record.

The same agreement shall also apply to the following acts of the General Assembly of Maryland:
Act of 1890, Chapter 200 ; Act of 1890, Chapter 202 ;
Act of 1892, Chapter 391 ; Act of 1896, Chapter 166 ;
Act of 1896, Chapter 219.

Counsel for Plaintiffs offered in evidence Ordinance 111, approved Oct. 17, 1892, which was read.

It is admitted by the parties hereto that the Directors of the Maryland Penitentiary acquired between

Also Act of the General Assembly of Maryland of 1890, Chapter 202, which was read.

Also Act of the General Assembly of Maryland of 1892, Chapter 391, which was read.

Also Act of 1896, Chapter 166, which was read.

Also Act of 1898, Chapter 219, which was read.

- ~~W~~ JOHN F. WEYLER, called by Plaintiffs, sworn.
- Q (BY MR. BARTON): You are Warden of the Maryland Penitentiary, are you not ?
- A Yes, sir.
- Q How long have you been Warden of the Maryland Penitentiary ?
- A I was first appointed on the 9th of May, 1888, and assumed the duties of the wardenship on the first of June, 1888.
- Q Have you been Warden of the Penitentiary continuously ever since ?
- A Yes ; I have been Warden of the Penitentiary continuously ever since.
- Q The Penitentiary building was rebuilt and very much enlarged about 15 years ago ? ~~W~~

Gibson et al

v
Weyler

Bill of Exceptions

Exhibit A

Gibson et al

v
Weyler