

Gibson et al
vs
Heyler

Pliffs Prayers
Refused

Feb 19 1909

Plaintiffs' Prayer.

R. J. Gibson

That under the pleadings and admissions of facts filed in this case and offered in evidence, it stands admitted that Thomas King Carroll and Juliana Stevenson Carroll, his wife, on the 19th day of May, 1831 were seized in fee simple of the lands described in the declaration and the lands surrounding the same, and the Court rules as matter of law that if it finds as matter of fact the deaths of Thomas King Carroll and Juliana Stevenson Carroll, his wife, both of them intestate, in or about the years 1875 and 1849 respectively, and that Henry James Carroll, Dr. Thomas King Carroll, Mary H. Carroll, Anna Elia Carroll, Henrietta Gibson Ada C. Bowdle (one of the plaintiffs) and Sarah or Sally C. Craddock *except another daughter of Dr. Carroll who died without issue before her father* (one of the plaintiffs) were their only children and issue; that the said Henry James Carroll died unmarried and intestate in or about the year 1878; that the said Anna Elia Carroll and Mary H. Carroll each died intestate, without issue and unmarried in or about the years 1893 and 1898, respectively, that the said Henrietta Gibson died intestate and a widow in or about the year 1898, that the plaintiffs, Frank E. Gibson and Julia Foster were and are the *except a son Fayette who died about 1870 and was unmarried and intestate* only children and issue of the said Henrietta Gibson, that the said *was married to Margaret H. Carroll in 1852 and* Dr. Thomas King Carroll died intestate, in or about the year 1900, and that the plaintiffs Charles G. Carroll, Victor *William Carroll* Carroll, Margaret H. Carroll, Julia S. Carroll and Nellie C. Carroll were and are *except a son who died in or about 1876 before his said father* only children and issue; and that Margaret H. Carroll was his widow and that she died in 1907, then under the pleadings and evidence in the case, the plaintiffs are entitled to recover, even if the Court further finds as matter of fact that the lands sought to be recovered in this case were in the year 1831, by the certain deeds offered in evidence, to Coulter, Henry and Howard respectively, dedicated by said Carroll and Juliana his wife, to the public for use as a public street or highway under the name of Constitution Street, and that said lands were for many years subsequent to 1831, used as a public street of the City of Baltimore; provided the Court shall further find as matter of fact that

in the year 1890 the General Assembly of Maryland passed the Act offered in evidence entitled Acts of 1890, Chapter 200, providing for the extension of the Maryland State Penitentiary, and that said Constitution Street comprising as aforesaid the lands described in the declaration, is embraced within the area prescribed in said Act; that thereafter/ to wit on the 17th day of October, 1892, the Directors of the Maryland Penitentiary procured the passage by the Mayor and City Council of Baltimore of the Ordinance offered in evidence, to wit, Ordinance No. 111 passed 1892, that the General Assembly of the State of Maryland also passed the Acts offered in evidence herein, to wit, Acts of 1890, Chapter 202, Acts of 1896, Chapter 166 and Acts of 1898, Chapter 219 ; that during the year 1896, the said Directors of the Maryland Penitentiary began the erection upon said lands, as termed herein "Constitution Street", of massive, costly and permanent buildings, as an addition to and an essential part of the Maryland State Penitentiary and continued the erection of said buildings up to some time in the year 1899, so that said Constitution Street was entirely and permanently occupied and enclosed thereby, that said buildings have ever since been maintained upon said lands and used as a part of said State Penitentiary, and that at no time since the commencement of the erection of said buildings have said lands been used or usable as a street or highway or for purposes of passage upon, under or across the same by the public; that at the time of the erection of said buildings, the Directors of the Maryland Penitentiary were the owners of the property abutting on said lands, and that the erection and maintenance of said buildings on said lands were with the knowledge and acquiescence of the Municipal authority of Baltimore.