

at this time to say - definitively whether it would not be for the true interest & advantage that the said Real Estate should be sold your respondents are advised and do insist that the Lands and Tenements wherof said Frederick Schlayer died seized and passed descended to his heirs at Law as set forth in the Bill, and in the answer of those respondents & that under, and by virtue of the Title so derived your respondents are entitled to insist and do insist that a Commission in Conformity to the provisions of the acts of assembly of this State shall issue from this Court to divide said lands & to make partition of the same, either among all the heirs at Law of said Frederick Schlayer or if the lands will not admit of Equal Division among all the heirs to divide the same into as many parts as the same may be susceptible of being divided into in the judgment of said Commissioners and to value the said parcels or if the same in the Judgment of said Commissioners be not susceptible of any advantageous apportionment that they value the whole in money - and make return to this Court of their proceedings your respondents are advised - that if upon the report of Commissioners so to be made an Equal Division of said lands and Tenements cannot be made - that it will be the rights of the heirs at Law of said deceased and of your respondents, in their due order as being of such heirs to elect to take the said lands as an entirety or some one of the allotments thereof in Case more than one is made by the Commissioners at the valuation to be placed upon the same by said Commissioners your respondents are advised and insist that their said right of Election is a valuable right of which they cannot lawfully be deprived that they cannot be driven to consent to a sale of said Real Estate, until the same shall have been valued by Commissioners, and your respondents have had an opportunity to consider and determine - whether they will take the said Real Estate or any allotments thereof, to be made by the Commissioners, at the valuation thereof to be made by said Commissioners or whether they will thereafter claim a sale in case these circumstances it being for the Interest and advantage of your respondents, that said Real Estate should be viewed, and valued by Commissioners to be appointed by this Court & being unable to Judge whether the said Commissioners may divide the same into convenient parcels and may place a valuation on it rendering it devalued & advantageous - to your respondents to elect to take the same at such valuation or claim the same to be sold your Respondents are constrained to deny as at present advised that it would be for their Interest & advantage that said Real Estate should be sold under a Decree of this Court your respondents nevertheless claim that they have the rights if hereafter they should be of opinion by reason of the valuation to be placed on said land by Commissioners to refuse to take or to insist upon taking said Real Estate Having thus set forth, and explained their grounds & reasons for the averment they now make and to meet the same - so broadly as to be given exception for indefinite business your respondents aver that in the present state of the rights of the parties concerned that said land and premises should be sold and the proceeds divided among them but on the contrary it would be highly injurious to the Interests & Substances of the advantages of your respondents - and they therefore again pray that this Court will pass an Interlocutory Decree for a Commission to certain discreet persons as Commissioners as they have already in and by their original & this their supplemental answer insisted and as induly bound will ever pray &

Wm. Menick, Solicitor

For F. A. Knott & wife

Francis A. Knott,

Ruth W. Knott,

The following order &c was filed 19 Oct^r 1854