No. 4302 Equity

three hundred and sixty four dollars and fifty cents, to your respondent Martha Ann Fox three hundred and fifty-seven dollars and fifty cents to your Respondent Malinda Wagaman three hundred and forty eight dollars and twenty eight cents, to your Respondent Amanda E. Monahan three hundred and sixty-five dollars to your Respondent Emeline Beuschof four hundred and seventy dollars, to Cinderella Buhrman five hundred dollars, and to your Respondent Reuben Buhrman five hundred dollars. that said will then directs as follows. "I further order and ordain that my heirs shall sell my real estate whenever they shall agree to the best advantage to pay the foregoing bequests" thereby making all the foregoing bequests a lien and charge upon said real estate except the one hundred and fifty dollars directed to be paid out of the personal estate, said legacies which are charged upon the real estate amounting to four thousand one hundred and fourteen dollars and seventy-eight cents in the aggregate.

That the will then directs as follows "I order and ordain that in case my estate should not reach the foregoing legacies then an equal deduction shall be made from their respective shares". that said real estate sold for only sixteen hundred and fifty dollars, that under said will the deficiency ought to be borne by all of said legatees including said Mary Buhrman's share full after the expenses are deducted there will only be about six hundred dollars left with which to pay the remaining three thousand two hundred and sixty-four dollars and seventy eight cents of legacies a mode of distribution which your respondents admit would be grossly inequitable and unjust and contrary to the intention of the testator and to the plain provisions of the will. Your respondents further state that said Mary Buhrman had not long been married to the testator and aided little if any in the acquisition of the property but that the same was accumulated by the thrift and industry of the testator and of his children there being no children by said Mary Buhrman.

Your Respondents therefore for the reasons hereinbefore stated pray the Court to dismiss the said petition and to distribute the proceeds as directed by the will and in duty bound &c

C. V. S. Levy, Solicitor
for Respondents above named

Filed June 2, 1879

Mary Buhrman and others vs Joseph Fox and others

No. 4302 Equity

In the Circuit Court for Frederick County, as a Court of Equity.

May Term 1879

Court's Opinion

The question now before the Court in this case is, whether under the last will of Daniel Buhrman deceased, his widow, Mary Buhrman is entitled to have her legacy of eight hundred and fifty dollars, paid in full out of the proceeds of the sale of the real estate of said deceased, there not being sufficient to pay the full amount of all the legacies named in said will. The testator gives to his wife, one hundred and fifty dollars out of his personal estate, which bequest fails, because there was not enough personal to pay all the debts and the expenses of the administration. He further gives to his wife, eight hundred and fifty dollars "out of the real estate when sold", and then gives to his children (naming them) pecuniary legacies of various amounts, so as to make them