

No. 1638 Equity

At the execution of the aforesaid Commission, issued out of the Circuit Court for Frederick County, sitting as a Court of Equity, and to me directed & empowering me to examine and enquire in the cause therein depending, between David C. Martin, and Ann C. Martin, his wife, as Complainants, and John W. Martin & Margaret Ellen his wife, and others as Defendants, J. William R. Nelson, one of the Commissioners therein named, did, on the 11th day of January A. D. 1881, at my office in Frederick City, Maryland, then and there, in the presence of the Solicitor for the Complainants, proceed to take the following testimony:

The Complainants filed with the Commissioners as Evidence "Exhibits Nos 1" "2" "3" "4" "5" & "6," and "A," which are herewith returned by the Commissioners.

George W. Newbiss, a witness of lawful age, produced upon the part of the Complainants, being duly sworn, and examined to Interrogatories filed with the Commissioner by the Complainants, and herewith returned, deposes and says, to the

1st Int.— I know all the parties, and have known them for some years.

2d Int.— I was. She is dead. She died in Beckonsstown, Frederick County, Maryland, in October 1880.

3d Int.— She did not.

4th Int.— The left children are follows, namely. A daughter, Mary A. R. widow of John R. Wetherow, who died a number of years ago, adult and residing in Frederick County Md. a son John W. Martin, whose wife's name is Margaret Ellen Martin, both adults, now-residents of the State of Maryland, and residing in the State of Texas:— A son David C. Martin, whose wife's name is Ann C. Martin, both adults, and residing in Frederick County, Md.:— There was a daughter Margaret A. E. Newman, who died, about a year before her mother, leaving surviving her, a husband, Thomas A. Newman, adult, now-resident of the State of Maryland, and the following children, namely: Harry M., Willie M., Robert S., Rose V., Winfield, Scott Newman, all infants under the age of twenty-one years, and all now-residents of the State of Maryland.

5th Int.— She was seized, and possessed of real estate situated in Frederick County, Maryland. I look at Exhibits Nos. "1" "2" "3" "4" "5," now here shown me: She died seized and possessed of the property described in "Exhibit No. 1," called "Buck's Horn," except that described in "Exhibit No. 2," she also contracted to sell to Leonard R. Pasche about forty-five acres of Land, which is the rest of the Land, described in "Exhibit No. 1," and the deeds exhibited as "Exhibits Nos. "3" "4" and "5," and the deed to Calvin Heller "Exhibit A," are for parts of said forty-five acres. The part that is left unsold by her at the time of her death, contains about twenty (20) acres of land.

6th Int.— It is not susceptible of division among the parties interested without loss and injury, for the reason that it consists of about twenty acres of arable land, with improvements, and, if divided, the parcels would be too small to admit of advantageous cultivation, or sale.

7th Int.— From fifteen to eighteen hundred dollars. (1,500 to 1,800)

Newton C. Groff, a witness of lawful age, produced upon the part of the Complainants, being duly sworn and examined to Interrogatories filed with the Commissioners by the Complainant, and herewith returned, deposes and says. To the

1st Int.— I have known the parties for some years.

TESTIMONY

Exhibit