

they are hereby referred to one of the standing Examiners of this court for the purpose of taking testimony in said cause.

Glenn H. Worthington.

TESTIMONY.

To the Honorable the Judges of said Court--

The above cause being at issue and a notice having been given to me by the solicitor for the complainants of a desire to take testimony in said cause, leave of the Court having been first had and obtained, I D. Princeton Buckey, one of the Standing Examiners of the Circuit Court, duly appointed, qualified and sworn, met at the law offices of the Solicitor for the Complainants, on the 14th day of February, 1913, at the hour of three o'clock P. M. and then and there, in the presence of the solicitor for the complainants and the witnesses, proceeded to take the following depositions, that is to say--

Present--Arthur D. Willard, Esq.

Solicitor for Complainants, and the witnesses.

William Toms, of A., one of the plaintiffs having first been duly sworn and produced in his own behalf deposes and says--

I am William A. Toms, of A. I am 49 years of age. I live at Foxville, Frederick County Maryland. I am one of the Plaintiffs in this cause. I knew Abraham Toms of W., in his lifetime, he was my father, he died intestate on the fourth day of August 1904, in Frederick County, Maryland, seized and possessed of the lands and real estate described in Exhibits A. B. & C. filed in this cause. I look at them and they properly describe the lands of which he died seized and possessed, excepting therefrom that portion thereof that is described in exhibit D., filed in this cause, that he deeded to John H. Toms in his life time. These exhibits, I think, properly described the property he owned and the amount he sold off. At the time of his death the said Abraham Toms of W. left surviving him a widow, Susan Toms, who has died since the death of my father intestate. At the time of my father's death Abraham Toms of W. he left surviving him the following children and heirs at law, viz--William Toms of A., my wife's name is Clara M. Toms; Joseph Toms, unmarried, all of whom are adults and residents of Frederick County Md. A son Hamilton Toms, whose wife's name is Celia Toms who is still living and whose age is about 51 years, that is her age. Hamilton Toms died in the year 1911, on the 9th day of December, and Celia Toms surviving him. He also left the following children--and heirs at law--Charles Toms whose wife's name is Bessie Toms, all the above are adults and residents of Frederick County, Maryland. Hamilton Toms died intestate also a son of Abraham Toms of W., Alfred Toms, who died intestate in the month of February 1899, before the death of Abraham Toms, and he left surviving him two children whose names are Raymond Toms and Pearl Toms, both of whom are under 21 years of age and reside in Frederick County Maryland. his wife's name is Cora Toms, and residing in Frederick County Maryland.

None of his land adjoins the other and it must all be sold separately. It cannot be divided amongst the parties who are entitled to interests therein without loss and injury to their several interests because there are only one set of buildings and they are located on the tract described in Exhibit C.

The other two tracts described in Exhibits A and B are timber land unimproved, and it would be to the interest and advantage of all the parties entitled to any interest in this real estate that the same should be sold and the proceeds divided according to their respective interests.