

A. Yes, sir; they were fair values for the properties.

State whether in your opinion it would be of benefit or advantage to all the parties in interest to sell the properties to the same person to whom they have been sold and for the same amounts for which they were sold in pursuance of the proceedings in the orphans Court for Frederick County, Maryland, that is, to ratify the sales already made.

A. Yes, sir. I think it would be.

To the General interrogatory by the examiner.

A. No, sir, nothing further.

Ambrose D. Whitehill.

Whereupon there being no further witnesses and no further time being required for the production of testimony, I hereby certify that the foregoing are the depositions in this case as the same were taken down and transcribed by J. E. Schell, Jr., stenographer, he having been first duly sworn for said purpose, and that the foregoing depositions, after being so transcribed, were read over to and signed by the witnesses respectively, and I herewith return the same enclosed to the Court. Witness my hand this 18th day of January, in the year A. D. 1915.

Clayton O. Keady.

Examiner.

Costs of the foregoing testimony.

Clayton O. Keady, Examiner	\$4.00	
J. E. Schell, jr., stenographer	4.00	\$8.00

Certified to

Clayton O. Keady,
Examiner.

OPINION AND INTERLOCUTORY DECREE.

Greenbury R. Sappington, late of Frederick County, died on or about February 12, 1914, leaving a last will and testament, Executed in due form of law, which was probated on March 4, 1914. The testator left no widow or descendants, having never married, but besides considerable personal property he died owing several pieces or parcels of real estate, some of which he specifically bequeathed or devised, and he also directed the payment of certain legacies; he then disposed of the remainder of his estate in the following words--

"After my debts are paid, and funeral expenses paid and a monument erected over my grave, all the balance of my property of all kinds to be divided into three parts. One third to the Children of Elizabeth S. Whitehill, one third to the children of Richard C. Sappington. One third to the children of Wm. A. Sappington."

The "balance" or residue of the property consisted of both real and personal. The real estate embraced--

1. A farm of 202 acres in Frederick County.
2. A tract of 12 acres, more or less, of woodland, in the same county.
3. A house and lot in Union Bridge, Carroll County, and
4. Two building lots located in the same town in Carroll County.

The bill of complaint in this case was filed with a view of obtaining a decree for the sale of all this real estate for the purpose of partition among the three sets of children above named on the ground that it could not be divided amongst them in kind without loss and injury to the persons entitled. The theory being that the clause above quoted from the will of Greenberry R. Sappington was a devise in kind of the real estate above mentioned and that the children of the three persons named were tenants in common of said lands and real estate. It appears from the evidence however, that before the bill of complaint in this cause was filed, the executor of the last will and testament of Greenberry R. Sappington the testator, had obtained