

October 1st, 1909.

10511 Equity.

4th. That the said Elisha Swomley's daughter Sarah M. Married William Smith; his said daughter Virginia married George S. Hickman and his said son Clarence W. Swomley married Annie Stapp.

5th. That the said Sarah M. Smith died on or about Feb'y 1918 being intestate in the State of Maryland, leaving two children viz; Clinton W. Smith and Raymond E. Smith whose wives name is Corinne A. Smith her husband William Smith, having died ten years or more ago.

6th. That the said Edgar N. Swomley died unmarried and intestate in May, 1917, leaving as his heir at law his father, the said Elisha Swomley, his sole surviving parent.

7th. That by reason of the death of the said Edgar N. Swomley before the death of his father the devise to him in his father's will did not lapse or fail of taking effect, but under the statute law of Maryland was transferred to his brothers and sisters, the said Sarah M. Smith, Virginia Hickman, Clarence W. Swomley, Ella J. Swomley and Elisha Chalmers Swomley, each of whom became, upon the death of the said Elisha Swomley entitled to a one-fifth interest in the devise to the said Edgar N. by the will of his father, the said Elisha Swomley.

8th. That the said Sarah M. Smith having also died before her father her one-fifth interest in the said Edgar's share was transferred by operation of law to her two sons and heirs at law viz; - Clinton W. Smith and Raymond E. Smith.

9th. That by reason of the death of Edgar N. Swomley intestate in the year 1917 and the death of his father in the year 1922 as aforesaid, the said children and heirs of the said Sarah M. Smith, and the said Virginia Hickman and also the said Clarence W. Swomley, all became and still are tenants in common, in the proportion of their respective interests, with the Plaintiff's Ella J. Swomley and Elisha Chalmers Swomley, in the real estate mentioned and referred to in the residuary clause of said will and being the same real estate of which the said Elisha Swomley died seized and possessed, which real estate is described and set forth in the next succeeding paragraph.

10th. That the said real estate mentioned and referred to in the residuary clause of said will, being also the same real estate of which the said Elisha Swomley died seized and possessed and which is now held by the Plaintiffs and defendants as tenants in unequal proportions consists of two Farms situated in New Market District in Frederick County, the one called the Home farm containing 175 acres, more or less, and the other called "Locust Grove" containing 105 acres, more or less, and wood lot containing 10 A. 2 Roods and 28 perches, more or less and also a parcel containing 5. acres 2. roods and 17 perches inherited from his son Edgar N. Swomley, as will appear by certified copies of deeds for said several tracts or parcels of land herewith filed marked Exhibits Nos 2.3.4.5.6.7.8 and 9 which are herewith filed as part hereof.

11th. That all the Plaintiffs and Defendants named in this Bill are adults over the age of 21 years; that the Plaintiffs reside in Frederick County, and the defendants Virginia Hickman, (called in the will Ida Virginia Hickman) and her husband George H. Hickman are residents of Baltimore City in the State of Maryland; that the defendants Clarence W. Swomley and Annie Swomley, his wife are non-residents of the State of Maryland residing in Kansas City, Missouri; that Raymond E. Smith and Corinne A. Smith, his wife, of the defendants are non-residents of Maryland residing in the state of Ohio, and the other defendants Clinton W. Smith is a non-resident of Maryland, residing in the State of Missouri.