

They also contend that in the fifth paragraph of his will said testator clearly indicated that the election to take the homestead was not to be postponed.

Thirteenth: That some of the parties in interest contend that the privilege given to each of the children to take the homestead on the terms set out in the third paragraph of said will should only take effect from and after the date of the death of the wife of the testator because she was devised and bequeathed a life estate therein under the first item of the will. Others contend that the power of election to take said property became effective at the death of said testator. That as none of them elected to take the same as and when they became twenty-five years of age said power of election has become null and void.

Fourteenth: That it is also contended on behalf of the said Louise Rogers, also known as Sister Depaul Rogers, that as she did not receive the legacy of One Thousand Dollars bequeathed to her in said will she should be entitled to an amount equal thereto, with such interest thereon as your Honors may think proper, to be paid to her from the proceeds from the sale of said real estate.

Fifteenth: That it is also contended by some of the parties in interest that the real estate in Texas mentioned in the sixth paragraph of said will should not be sold until after the sale of the real estate in Maryland. While others contend that the real estate in Maryland can be sold after the land in Texas has been disposed of.

Sixteenth: That it is also contended by some of the parties in interest that the bequest of Fifty Dollars, per year, to St. Joseph's Catholic Church, mentioned in the eighth paragraph of said will, is null and void for several reasons, principally because it violates the rule against perpetuities.

Seventeenth: That the real estate of the said Charles Arunah Rogers, hereinbefore described is not susceptible of division or partition among the parties entitled thereto without great loss and injury, and that it will be to the benefit and advantage of all of the parties in interest that said real estate be sold under a decree of your Honorable Court and the proceeds distributed among those entitled to receive the same according to their respective interests.

Eighteenth: That all of the parties to this cause are over twenty-one years of age, that all of them reside in Frederick County, Maryland,