June Term 1859

Edward Dowling: Clk Supr Court of Baltimore City.

And now here at the said Stamber Term of the Circuit Court aforesaid, come into the said Circuit Court here as well the said Plaintiffs in this suit by Grafton L. Dulany and Henry Winter Davis Esquires their attornies as the said Richard Colvin Warford the Defendant by George William Brown and Frederick W. Brune Junior Esquires his attornies, Thereupon further process of and upon the premises aforesaid, between the parties aforesaid by order of the Court here thereon is continued until the first Monday of March next. At which said first Monday of March to wit: in the year 1854 come again into the Court here the parties aforesaid by their attornies aforesaid. Thereupon further process of and upon the premises aforesaid between the parties aforesaid by order of the Court here thereon continued until the fourth Monday of November then next. At which said fourth Monday of November, to wit: in the year last aforesaid come again into the Circuit Court here as well as said Plaintiffs by Grafton L. Dulany, Henry Winter Davis, John Johnson and Richard T. Merrick, Esquires their Attornies as the said Defendant by William George Brown, Frederick W. Brune Junior, Reverdy Johnson, William Schley and Samuel A. Stagart Esquires his attornies – and the said plaintiffs by their said attornies filed in Court here the following Record of Additional Issues from the Orphans Court of Baltimore City, to wit: The State of Maryland – At an Orphans Court held for Baltimore City in the Court House in the City of Baltimore in the twelfth day of January in the year of our Lord one thousand eight hundred and fifty five.

Were present

James A. Reed, William B. Nelson, John J. Gross, Judges

Samuel Hindes Sheriff. A. Hickman. Register

Among other proceedings were the following to wit.

Thompson Pegg & Mary Ann Pegg
Ann Shamp, Joseph Cain.
Richard Cain, Mary Lewe & Daniel
Lewe her husband, Anne Nudnutt,
John Cain of Gresham, John Cain
of Daniel and Elisha Warford.
vs
Richard Colvin Warford.

Be it remembered that on the ninth day of January in the year of our Lord one thousand eight hundred and fifty five Thompson Pegg, and Mary Ann Pegg, Ann Shamp, Joseph Cain, Richard Cain, Mary Lewe and Daniel Lewe her husband, Anne Nudnutt, John Cain of Gresham, John Cain of Daniel and Elisha Warford come here into the Orphans Court for Baltimore City by Grafton L. Dulany and Henry Winter Davis Esquires their attornies and exhibit and file in Court a certain paper writing, being a petition or written application of the said Caveators praying the Court that additional issues be awarded, and sent to the Circuit Court for Baltimore County and which said petition or written application as aforesaid, is in the words and figures following, to wit: In the Orphans Court of Baltimore City, The Caveators in the Matter of Rachel Colvin, will pray the Court to award the following issues.

1st Whether the said Rachel Colvin was of sound and disposing mind and memory and capable of executing a valid Deed or contract at the time of the signing and publication of the paper purporting to be her will, dated the 30th October 1845.

2nd Whether the said Rachel Colvin was prevented by the fraud or false representations or undue influence of any person or persons from writing the said paper, dated the 30th October 1845 purporting to be her last Will, by Cancelling, tearing, burning or Obliterating the same or otherwise? And the Court is prayed to direct the said issues to be transmitted to the Circuit Court of Baltimore County, where the issues formerly awarded relative to the said Will are now depending and to be tried at the same time and by the same Jury with the said Issues formerly Awarded. G. L. Dulany

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Henry Winter Davis. – Whereupon on the twelfth day of January in the year last aforesaid all and singular the premises being seen heard and fully understood by the said Orphans Court for Baltimore City and after mature deliberation being had, thereupon, the said Orphans Court passed a certain order and Decree in the premises awarding certain issues to be sent to the Circuit Court for Baltimore County to be tried at the same time and place, and by the same Jury as the issues heretofore awarded the same parties by the said Orphans Court and where the said issues are now remaining, depending for Trial, and there to be tried in said Circuit Court of Baltimore County according to law; and which said order and Decree awarding the said issues as aforesaid in the words and figures following, to wit:

Pegg, Cain & Others
vs
Warford.

In the Orphans Court of Baltimore City. In the matter of Rachel Colvin's will. On the petition of the Caveators in the above cause, in writing praying that the two additional issues following viz:

1st Whether the said Rachel Colvin, was sound and disposing minds and memory and capable of executing a valid deeds or contract at the time of signing and publication of the paper purporting to be her will, dated 30th October 1845.

2nd Whether the said Rachel Colvin was by the fraud or false representations, or undue influence of any person or persons from writing the said paper, dated the 30th October 1845 purporting to be her last will, by cancelling tearing, burning or obliterating the same or otherwise. Be awarded to be tried, at the same time and place and by the same Jury as the issues heretofore awarded the same parties. It is now this 12th day of January 1855, ordered by the Court that the said issues be awarded, on the petition of the said Caveators and that the said issues be sent to the Circuit Court for Baltimore County where the issues formerly awarded are now depending for trial; and that the said issues above awarded be tried by the said Court, by the same Jury and at the same time as the said other issues heretofore awarded the said parties, and on such trial of the said issues now awarded, it is further ordered that the parties who are plaintiffs in the issues heretofore awarded, shall be plaintiffs in those now awarded, and those who are Defendant in the issues heretofore awarded shall be Defendant in the issues now awarded.

James A. Reed Wm. B. Nelson. J. J. Gross

It is thereupon ordered and directed by the said Orphans Court for Baltimore City that the proceedings, in the case aforesaid be transmitted to the Circuit Court for Baltimore County and the same is hereby transmitted accordingly.

In Testimony that the aforegoing is a true copy taken from the Record of the proceedings of the Orphans Court for Baltimore City in the above mentioned case, I hereunto subscribe my name and affix the Seal of the said Orphans Court for Baltimore this twelfth day of January in the year of our Lord Eighteen hundred and fifty five.

Seal

Test: A. Hickman Register of Wills for Baltimore City.

Whereupon for trying the Issues between the parties aforesaid it is ordered by the Court here that Twenty persons from the panel of Jurors returned to the Court here by the Sheriff of Baltimore County aforesaid be drawn by ballot according to the Act of Assembly in such case made and provided: and thereupon the twenty persons being so drawn by ballot and written upon two lists one of which said lists is delivered to the Counsel for the respective parties, and the Counsel for each of the