April Term 1865

Dwyer vs Cunningham — Circuit Court of Baltimore City

It is agreed that a Commission to take testimony may issue to Frederick Huntley Esq.
12 March 1859.

S T Wallis R S Matthews for Complt
John Carlin Solr for Robt Carroll
Wm Schley Solr for Cunningham and Hughes.
Robt A Ridgway Solr for Hall
Mitchell Commissioner and S B Sexton.

Whereupon a Commission issued accordingly and the said cause so standing was continued to the second Monday in May then next, at which said second Monday called in the year last aforesaid came again into Court here the parties aforesaid by their Solicitors aforesaid, and the said cause was further continued until the second Monday of July then next, at which said second Monday of July called in the year last aforesaid came again into Court here the parties aforesaid by their Solicitors aforesaid and afterwards called on the 27 day of July in the year last aforesaid Frederick Huntley Esquire to whom the said Commission to take testimony was directed made return of the same to the Court here together with the proceedings under the same and in pursuance thereof which are in the words and figures following to wit (see same and further proceedings below under a remand of the Commission) and the said cause so standing was continued until the second Monday in September then next, at which said second Monday of September called in the year last aforesaid came again into Court here the parties aforesaid by their Solicitors aforesaid, and afterwards called on the 10 day of September in the year last aforesaid the Court passed the following order or rule for hearing to wit,

Dwyer vs Thomas A Cunningham } In the Circuit Court for Baltimore City
September 19th 1859

Ordered upon Motion of the Complainants Solicitor that the above cause be set down for hearing on the 14th day of October 1859 Provided a copy of this order be served on the opposite party or his Solicitor one week before the 24 day of September.

Wm Geo Krebs,

On the Back whereof is thus endorsed to wit: Service of copy of the within order admitted 19 Sept 1859

Wm Price for Respondent
Wm Schley for Thos Cunningham
John Carlin for Carroll

And afterwards called on the 26 day of October in the year last aforesaid the said John W Wright Abbie E Wright and Susan J Cunningham by their Solicitor aforesaid filed in said cause a Following Petition to wit

John Dwyer vs Thomas A Cunningham John W Wright and others } To the Circuit Court for Baltimore City
To the Honorable William George Krebs Judge of the Circuit Court for Baltimore City

The petition of John W Wright and Abbie E Wright his wife and Susan

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J Cunningham defendants in the cause above entitled Respectfully suggests to your Honor that Thomas H Cunningham one of the defendants in the above cause is absent from the City of Baltimore and has been so absent since sometime in August last and that he is probably at this time in Boston in the State of Massachusetts as he has engagements which necessarily keep him there, that your petitioners have no means of informing their Solicitor by whom the fund of the Real Consideration for the two deeds of which Exhibits A & B of the Bill in this case are copies can be found although they are well satisfied from information as well from said Abigail Cunningham in her lifetime the grantor in said two deeds as from statements made by said Thomas A Cunningham long before this suit was instituted or any such was anticipated that the said Abigail Cunningham before the time of the date of said deeds had loaned to the said Thomas A Cunningham various sums of Money amounting as they understood to the sum of seven thousand dollars or upwards and that the property covered by said deeds was conveyed to him in payment of the Money so loaned. Your petitioners further state that they believe that said Thomas A Cunningham (who is the executor of the Will of said Abigail Cunningham) to give due attention to the case and to give all requisite information to their Solicitor but now finds that he has neglected to do so. Your petitioners have sent to him for information and expect to receive such information from him as will enable them to furnish the necessary proof of the fund consideration. They therefore pray your Honor to permit them to furnish such proof on day only asked reasonable time to do so, and as in duty &c.

Wm Schley Solr for Petitioners.

State of Maryland Baltimore City to wit, On this 26 day of October in the year of 1859 before me the subscriber one of the Justices of the Peace of the State of Maryland in and for the City aforesaid personally appeared John W Wright one of the petitioners and solemnly sincerely and truly affirmed that the matters and things stated in the foregoing petition are true as therein set forth to the best of his knowledge information and belief and that the said petition is not filed for any purpose of delay. Affirmed Before Wm H Hayward

Which being read and heard the Court passed the following order to wit.

In the Circuit Court for Baltimore City Oct 26 1859 On consideration of the petition and by consent of the Solicitors of the respective parties it is Ordered that the Commission in this cause be remanded to enable the petitioners to take Evidence for the purpose therein mentioned the Complainant to be at liberty also to offer further Evidence returnable on or before the 20th day of November next.

Wm Geo Krebs,

And the said Commission was remanded accordingly and the said cause so standing was continued until the second Monday in November then next at which said second Monday of November in the year last aforesaid came again into Court here the parties aforesaid by their Solicitors aforesaid, and afterwards called on the 27 day of November in the year last aforesaid the Court passed the following order or rule for hearing to wit

Dwyer vs Cunningham and als } In the Circuit Court for Baltimore City
22d Nov 1859

Ordered upon Motion of the Complainants Solicitor that the above cause be set down for hearing on the 10th day of December 1859