

11. Under and by virtue of the Will of the said Samuel Street, deceased, the said Thomas Clark Street became entitled to two undivided sixth parts, to his own use and benefit; and the said Cynthia, Julia Ann, Elizabeth and Caroline, became equitably entitled each to one undivided sixth part of the moiety of the said lands to which the said Samuel Street was entitled at the time of his death, but no division of the same has ever taken place, and under and by virtue of the conveyance in the eighth paragraph mentioned, the said Thomas Clark Street became entitled to the whole of the remaining moiety of the said lands to his own use and benefit.

12. After the death of the said Samuel Street, the said Caroline, for a valuable consideration, released and conveyed to the said Thomas Clark Street and his heirs, all her said one-sixth part of the said moiety of the said lands; and the said Thomas Clark Street accepted the said release and conveyance, and became seized thereof as to two undivided fifth parts thereof, to his own use and benefit, and as to the remaining three undivided fifth parts thereof, as trustee for the said Cynthia Fuller, Julia Ann Macklem, and Elizabeth Plumb, in equal shares.

12 (a). By certain marriage articles, dated on the twenty-ninth day of May, in the year of our Lord 1849, made between the said Josiah Burr Plumb, of the first part, and the said Thomas Clark Street, as trustee and guardian of the said Elizabeth Plumb, then Elizabeth Street, of the second part, and made shortly before, and in contemplation of, the marriage of the said defendants, Josiah Burr Plumb and Elizabeth Street, the said defendant, Josiah Burr Plumb, amongst other things, did covenant with the said Thomas Clark Street that the share of the said Elizabeth Street in the said lands should during and notwithstanding her coverture be held and enjoyed by her, the said Elizabeth, for her separate use and benefit, or to such uses as she should, notwithstanding her coverture, by any deed or by her last will and testament appoint.

13. The said Elizabeth Plumb departed this life on or about the twentieth day of December, A.D. 1868, leaving her surviving her husband, the defendant Josiah Burr Plumb, and leaving also her surviving her 6 children and heirs at law, the defendants Thomas Street Plumb, Frederick Plumb, Duncan Charles Plumb, Elizabeth Street Plumb, Mary Gertrude Plumb, and Anna Isabel Burr Plumb, the