In Chancery
V. C. Blake

Manday the thirtieth day of June 1879

Between William Henson Abbott

Plaintiff

and

Anderson Ruffin Abbott, Amelia Etta Watkins and John L. Watkins her husband: Adolphus H. Judah, Mary Tayer, The British Methodist Episcopal Church for the Province of Ontario, and Mary Etta Ellen Abbott, Wilson Ruffin Abbott, Annie Casey Abbott, John L. Watkins the Younger, William Wilson Abbott Watkins, William Louis Abbott, Anderson Richard Abbott and Joseph Wilson Abbott, Infants under the age of twenty-one years.

Defendants.

1. This cause coming on to be heard by way of motion for decree in presence of counsel for the plaintiff and defendants (other than the British Methodist Episcopal Church for the Province of Ontario) and in presence of the Guardian for the Infant defendants upon hearing reading the Bill of Complaint and the answers of the said defendants (other than the said British Methodist Episcopal Church for the Province of Ontario) and the agreement of settlement entered into between the Plaintiff and the defendants Anderson Ruffin Abbott Amelia Etta Watkins, John L. Watkins and Adolphus H. Judah and counsel

aforesaid consenting hereto and the said Guardian for the Infant -- defendants not objecting

·2· This Court doth declare that the Codicil in the said pleadings mentioned is the codicil to the Last Will and Testament of the Testator in the pleadings mentioned and doth order and decree the same accordingly

·3· and by the like consent this Court doth further order and decree that the legacies to the Infant defendants and to the defendants Mary Sayer and the annuity to the defendants the British Methodist Episcopal Church under the said codicil be and the same are hereby ratified and confirmed and it is ordered that the sum of six thousand dollars now deposited in the Western Canada Loan and Savings Company and the interest accrued thereon from the death of the said Testator be forthwith paid into Court and be invested for the benefit of the Infant defendants.

·4· And by the like consent this Court doth further order and decree that this cause be referred to the Master in ordinary of this Court to take and make the following accounts and enquiries

1st An account of the personal estate not specifically bequeathed of Wilson Ruffin Abbott deceased the testator in the pleadings named came to the hands of the Plaintiff or the defendants Anderson Ruffin

abbott and Amelia Etta Watkins
or any of them or to the hands of
any other person or persons by their
order or for their use or by the order
or for the use of any of them.
2nd An account of the said Testators
debts.
3rd An account of the said Testators
funeral expenses
4th An account of the said Testators
legacies
5th An enquiry what parts if any
of the said testators personal estate
are still outstanding or undisposed
of.
6th An enquiry what real estate
the said Testator was entitled to at
the time of his death.
7th An account of the rents and profits
of the said testators real estate received
by the said plaintiff and the said
defendant Andersan Ruffin abbott
and Amelia Etta ~~Abbott~~ Watkins
or any of them or by any person or
persons by their order or for their use
or by the order or for the use of
any of them.
8th An account of the moneys paid by
the said defendants Andersan Ruffin
Abbott and Amelia Etta Watkins or either
of them to the plaintiff or defendants
or any of them or to any other person
or persons on account of their share in
the said Testators Estate.

And by the like consent this Court
doth order and decree that the monies
of the said Testator in the hands of the
said defendants Andersan Ruffin Abbott

and Amelia Etta Watkins or either of them or with which they are chargeable shall be paid into Court to the credit of this cause within a time to be appointed by the said Master and the same after making provision for the sum of six thousand dollars and interest bequeathed to the infants when so paid shall be applied and paid out as follows.

1st in payment of the said Testators debts and let the balance of the said monies be apportioned and divided amongst the said plaintiff and the defendants Anderson Ruffin Abbott and Amelia Etta Watkins according to the amounts if anything found due to each of them under the last preceding clause hereof.

6. And by the like consent this Court doth further order and decree that in the event of there not being sufficient monies of the said Estate in the hands of the said Anderson Ruffin Abbott and Amelia Etta Watkins or either of them to pay the amounts respectively due to them on account of the said Estate the said Master shall be at liberty to allot to each of such parties so much of the said Testators real estate as shall be equivalent in value to the amount if anything due to each of them on account of the said personal estate and the rents and profits of the real estate and the same is to be taken into consideration by the Master in making the partition hereinafter directed and such allotments if any are to be in addition to and to form part of the shares of each of the said parties in the said real estate to whom such allotments are made.

·7· And by the like consent this Court doth declare that the Plaintiff is entitled to a partition of the lands and premises in question in this cause amongst the parties entitled thereto and doth order and decree the same accordingly.

·8· And by the like consent this Court doth further declare that the Plaintiff and defendants Andersan Ruffin Abbatt and Amelia Etta Watkins are each entitled to a third share of an interest in the said lands and premises subject to any allotments to be made to any or either of them under the sixth clause hereof and doth order and decree the same accordingly.

·9· And by the like consent this Court doth further order and decree that the said Masters do enquire and state whether any and what persons have encumbrances on the said lands and premises or any part thereof and by whom the same were created and whether by parties entitled to the said lands before or since the death of the said Testator and also what is due for principal and interest thereon and to tax to them their costs of proving their claims and settle their priorities and ascertain and state upon and out of the shares of which of the parties the same are chargeable and payable.

·10· And by the like consent this Court doth further order and decree that the said Masters do partition the said lands among the parties as are hereinbefore declared entitled to the same and do allot to them their shares in such proportions and for

such estates and interests as he may find them entitled having due regard in making such partitions to any allotment that he may have made under the sixth clause hereof and such parties are to hold and enjoy their respective shares and proportions of the said lands in severally according to such allotments and their respective estates and interests therein. And the said Master is to be at liberty to make owelty of partition and the said parties are to execute mutual conveyances to each other of the said lands to be settled by the said Master / in case the parties differ about the same or in case there shall be any infants or persons who are not sui juris interested therein / in which all parties are to join as the said Master shall direct and the Registrar is to execute the conveyances on behalf of such of the infant parties as by reason of their tender age are unable to execute the same.

11. And by the like consent this Court doth further order and decree that it shall be in the discretion of the said Master if he shall consider it necessary for the purpose of equalizing a division of the said lands and premises to direct a sale of unimproved land of the said Testator and in the event of such sale the same is to be by public auction tender or private contract with the approbation of the said Master who is to settle the conveyances to the

purchaser or purchasers (in case the parties shall differ about the same or in case there shall be any infants or other persons or other persons who are not sui juris interested therein) in which all necessary parties are to join, as the said Master shall direct and the Registrar is to execute the conveyances on behalf of such infants as by reason of their tender years are unable to execute the same and the purchaser or purchasers are to pay his her or their purchase money into Court to the credit of this cause.

12. And by the like consent this Court doth further order that the said Master shall ascertain and state the amount of such purchase money payable to any or each of the said parties for the purpose of equality of division as aforesaid and the same when so paid into Court is to be applied and paid out in such a manner as the said Master shall direct and appoint

13. And by the like consent this Court doth further order and decree that the costs of the Guardian of the Infant Defendants of this suit be paid out of the estate and that the other parties pay their own costs.

(sgd) Geo. B. Holmsted
Registrar.

Ed. 17-9-79 - D. B. 35 - P. 214 (sgd) [illegible]

In Chancery.

Abbott
v
Abbott

Copy of Decree

Copy Report of the Master,
dated 22 June 1880 handed
to Dr Abbott this
9/3/86 - WF.

Blake Kerr Boyd v Cassels