

**THOMAS G. FULLER, Administrator of the Estate of Frances Fuller, deceased,
Appellant, vs. LYDIA ANN JOHNSON and HENRY W. JOHNSON,
Appellees.**

1 LLR 56 (1872) (1 January 1872)

[January Term, A. D. 1872.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

1. An authentic copy of a will taken from public record is admissible as evidence.
2. The property of an illegitimate descends to the heirs of his body only.

The court has carefully reviewed the records in the case, and has come to this opinion, that the court below did not err in admitting a copy of the will signed by the clerk of the Probate Court as taken from the records of said court, notwithstanding it did not show that its original had been probated, because the action was not instituted for the purpose of setting aside the will, or the probate thereof, as would be presumed from the law quoted, which raised this question.

The court is also of the opinion that the authorities cited by appellant's counsel in this case exclude the necessity of further exposition of the law governing the same. However, for the satisfaction of all parties concerned, the court says the law will not lend its aid in support of a claim to an estate of a deceased person, under the right of title by heirship, to anyone else but the true and lawful heir. It is clear and obvious from the testimony given in the case, that Rosaline Cannot was an illegitimate daughter of one Mrs. Smith; and therefore, all other persons but her own issue are estopped from inheriting her estate under the right of heirship.

By the last will and testament of the said Rosaline Cannot the premises stated and described in the complaint of Lydia Ann Johnson and Henry W. Johnson, Sr., was bequeathed to her, the said Rosaline Cannot, children. Therefore, Thomas G. Fuller, husband of the late Frances C. Fuller, now acting as administrator of the estate of the said Frances C. Fuller, his late wife, is rightfully in possession of the said described premises in dispute, against all other persons, except George Cyrus, the brother of the said Frances C. Fuller, who is the only lawful heir of the said estate; and who, though absent from his home, in some foreign country unknown, is in the eye of the law still alive, and he is to be so considered until the contrary be shown either by proof positive or presumptive. And on proof of his death, by either of the last mentioned means of ascertaining the same, the said described premises shall escheat to the Republic of Liberia, unless it has been, previous to his death, lawfully conveyed away by him.

It must be remembered that the law of descent is founded on good reason, that it encourages good order in society, and makes it certain to whom the estate of deceased persons shall come.

The court adjudges, therefore, that the court below erred in its judgment in granting a new trial, and therefore the said judgment is hereby reversed ; and that the premises described in the complaint of the said Lydia Ann Johnson and Henry W. Johnson, Sr., are the property of one George Cyrus, son of Mrs. R. Cannot, and brother of the said Frances C. Fuller, deceased, and that a proof positive or presumptive of his death, before conveyance by him of the said premises, having been made, the said premises shall immediately escheat to the Republic of Liberia ; and that to this end the proper authorities shall give lawful notice through some Liberian or foreign paper to the intent of this judgment; all costs to be paid by the appellee.