

Maryland T. T.

At a County Court of the Sixth Judicial District of the State of Maryland begun and held for Harford County at the Court House in the Town of Bel Air in same County on the Third Monday of November, it being the seventeenth day of the same month, in the year of our Lord Eighteen hundred and forty five.

Present

The Honorable John C. Le Grand Associate Judge

Henry Richardson Esq<sup>r</sup> Sheriff

H. D. Gough Clerk.

In the record of proceedings of said Court among others were the following to wit.

Benjamin Weeks, John G. Barclay & Mary M. Barclay by her next friend John G. Barclay, Robert Barclay Joshua Barclay & Benjamin Scarborough & Hannah, his wife.	Be it remembered that heretofore to wit on the twenty ninth day of January in the year eight hundred and forty a certain Benjamin Weeks, John G. Barclay and Mary Margaret Barclay an infant by the said John G. Barclay her next friend, Robert Barclay Joshua Barclay and Benjamin Scarborough and Hannah Scarborough his wife by their Solicitor William B. Bond Esquire filed in Court here their Bill of Complaint against Elizabeth M <sup>c</sup> Causland, Robert M <sup>c</sup> Causland, Thomas J. M <sup>c</sup> Causland, Jane M <sup>c</sup> Causland, Elizabeth M <sup>c</sup> Causland, Maria M <sup>c</sup> Causland, Louisa M <sup>c</sup> Causland, Mary Ann M <sup>c</sup> Causland, Lucinda M <sup>c</sup> Causland, John B. Foard & Martha, his wife
or Elizabeth M <sup>c</sup> Causland Robert M <sup>c</sup> Causland Thomas J. M <sup>c</sup> Causland Jane M <sup>c</sup> Causland Elizabeth M <sup>c</sup> Causland Maria M <sup>c</sup> Causland Louisa M <sup>c</sup> Causland Mary Ann M <sup>c</sup> Causland Lucinda M <sup>c</sup> Causland John B. Foard & Martha, his wife	William B. Bond Esquire filed in Court here their Bill of Complaint against Elizabeth M <sup>c</sup> Causland, Robert M <sup>c</sup> Causland, Thomas J. M <sup>c</sup> Causland, Jane M <sup>c</sup> Causland, Elizabeth M <sup>c</sup> Causland, Maria M <sup>c</sup> Causland, Louisa M <sup>c</sup> Causland, Mary Ann M <sup>c</sup> Causland, Lucinda M <sup>c</sup> Causland, John B. Foard and Martha his wife, which said Bill is in the word and of the ten

or following to wit.

To the Hon<sup>ble</sup>

Bills

The Judges of Harford County Court sitting as a Court of Equity.

Your Orators and Oratrix Benjamin Weeks, John G. Barclay, and Mary Margaret Barclay an infant by the said John G. Barclay her next friend - Robert Barclay, Joshua Barclay, William Barclay and Benjamin Scarborough and Hannah his wife humbly complaining shew to your Honours -

That John Barclay late of Harford County deceased departed this life about the year

Eighteen hundred seized in fee simple of the following lands lying in Warford County aforesaid to wit one tract or parcel of land called "The Grove Enlarged" containing three hundred and ninety two acres also a tract or parcel of land called Prospect containing thirty three acres, and one other small parcel called "Barclays Slip" in the whole about four hundred and thirty acres, and leaving a widow named Elizabeth R. Barclay, and six sons to wit - John G. Barclay, James Barclay, William Barclay, Joshua G. Barclay, Robert Barclay and George W. Barclay.

That the said John Barclay deceased by his last will and testament duly executed for passing real estate devised his whole real and personal estate to his said widow Elizabeth R., until his youngest son should arrive to full age or during her widowhood, with various provisions in case his said widow should marry or die before his youngest son should arrive at the age of twenty one years, and in case any of his said sons should die before arriving at full age, but making no disposition whatever of the remainder after the estate devised to his widow aforesaid in case this said widow never married and all his said sons arrived to the age of twenty one; all which will more fully and at large appear by reference to a copy of the said last will duly authenticated herewith filed and marked Exhibit A, which your complainants pray may be taken and considered as part of this Bill of Complaint.

Your Complainants further shew to your Honours that the aforesaid William John and Robert conveyed all their undivided interests in said land to one George M<sup>c</sup>Cauleland, and that the aforesaid Joshua conveyed all his undivided interest in said land to his mother the said Elizabeth R., which said Elizabeth R., afterwards conveyed the same also to the said George M<sup>c</sup>Cauleland, after all which conveyances the said George W. Barclay departed this life Intestate and without issue, and the said Elizabeth also departed this life, so that the undivided sixth in said land of the said George W. descended to his five remaining brothers and their descendants.

Your Orator further shew that the said John Barclay, one of the sons of the said Testator is also now dead leaving an only child Hannah now the wife of Benjamin Scarborough aforesaid, and that James Barclay also one of the sons of said Testator is also now dead, leaving two sons to wit, John G. Barclay above mentioned and James J. Barclay,

which said James F is also m<sup>r</sup> dead leaving an only daughter to wit your oratrix Mary Margaret an infant. They further shew that the aforementioned John C. Barclay son of the aforesaid James deceased hath since the death of the aforementioned deceased parties conveyed all his interest in the land aforesaid to your Orator Benjamin Weeks.

Your complainants further shew to your Honours that the said George M<sup>c</sup>Cauleland hath also departed this life, intestate, leaving a widow named Elizabeth M<sup>c</sup>Cauleland and the following children his heirs at law to wit, Robert Thomas J. Lane, Elizabeth Maria, Louisa, Mary Ann, Lucinda, and Martha now the wife of one John B. Foard, all of whom are of full age and reside in Harford County.

Your complainants further shew that owing to the number of heirs, and the variety of interests in said land it is impossible to divide the same amongst the persons entitled without injuring to all, and that a sale of the same and a distribution of the proceeds is the only practicable mode of giving to each of said heirs the interest to which they are severally entitled.

Your Orators and Oratrices therefore pray your Honours to pass a decree for the sale of the said land and to appoint therein a trustee to make the said sale, and that the proceeds of such sale may (after payment of the costs of this proceeding) be distributed according to the respective rights of the said parties and that subpoena may issue for the said Elizabeth M<sup>c</sup>Cauleland widow of the aforesaid George, and for the said Robert M<sup>c</sup>Cauleland, Thomas J. M<sup>c</sup>Cauleland, Jane M<sup>c</sup>Cauleland, Elizabeth M<sup>c</sup>Cauleland, Maria M<sup>c</sup>Cauleland, Louisa M<sup>c</sup>Cauleland, Mary Ann M<sup>c</sup>Cauleland, Lucinda M<sup>c</sup>Cauleland, and John B. Foard and Martha his wife to answer the premises, and that your Honours will grant to your complainants all such other and further relief in the premises as to your Honours shall appear to be consistent with Equity and Justice and as in duty bound they will ever pray and so forth.

Wm B Bond

Solr for Compts.

Exhibit A filed with said Bill and prayed to be considered as a part thereof is as follows to wit-

J. John Barclay of Harford County State of Maryland, being weak in body but of

sound mind and memory, do make and order this my last will and testament in manner and form following

viz  
 First. Then my will is and I hereby order that my just debts of every kind be paid by my executors and after the payment of my debts as aforesaid my will is that my loving wife Elizabeth Rogers Barclay shall have and hold all my real and personal estate untill my youngest son George Washington Barclay arrives at the age of twenty one years or during her widowhood, she sufficiently supporting & schooling each of my three youngest sons viz. Joshua Gill Barclay, Robert Barclay and George Washington Barclay, and provided she makes no waste of my estate or suffers to be done, and if my wife as aforesaid should marry before my said youngest child comes to the year of twenty one as aforesaid, then in that case my will is that the whole of my estate real & personal as aforesaid be sold and the proceeds thence arising to be divided among my six sons and wife viz. John Gill Barclay, James Barclay, William Barclay, Joshua Gill Barclay, Robert Barclay, George Washington Barclay and my loving wife Elizabeth Rogers Barclay as follows. Those of my children that shall not have arrived to the full age of twenty one years at the marriage of my wife as aforesaid shall be sufficiently supported and schooled out of that part of my estate that may fall to my wife and sons come come of age as aforesaid untill they do arrive at the age of twenty one years, so as that every of my sons aforesaid and wife may be found to be equal shares in my estate when my youngest son George Washington Barclay shall have arrived to the full age of twenty one years as aforesaid, and if my said wife should die before my youngest son shall arrive to the age of twenty one as aforesaid then in that case my will is that the whole of my estate shall fall to my six sons as aforesaid in manner aforesaid, and if any of my six sons as aforesaid shall die before they arrive to the age of twenty one years, then in that case my will is that my surviving children & wife as aforesaid shall have the whole of my estate equally divided amongst them in manner aforesaid alway reserving a sufficiency out of that part of my estate that may fall to my wife & sons come of age at the marriage of my wife or of my sons come of age in case of the death of my wife as aforesaid to sufficiently school & support those of my sons that may not have arrived to the full age of twenty one years, at either of the above mentioned periods untill they shall arrive to the full age of twenty one as aforesaid.

Lastly in confidence of the true performance and due

execution of this my last will and testament I do appoint my true and loving wife Elizabeth Rogers Barclay, William Barclay and my son James Barclay in joint manner my whole and sole Executors of this my last will and testament utterly revoking all other will or wills or other bequests by me before this time made or done ratifying and confirming this and no other to be my last will and testament.

In testimony whereof I have hereunto set my hand and affixed my seal this twelfth day of October seventeen hundred and ninety nine.

J<sup>n</sup> Barclay (Seal)

N. B. between the 9<sup>th</sup> & 10<sup>th</sup> lines in the above is inserted (and wife) 18 & 19 (fall) 19 & 20 (the)

Signed, sealed pronounced and declared in presence of.

John Weeks

Robert M<sup>c</sup> Fadin

James M<sup>c</sup> Kilpatrick.

Warford County to wit.

June 23<sup>rd</sup> 1800. Then came James Barclay one of the within executors and by the said will named and appointed, and made oath on the Holy Evangelys of Almighty God, that the within instrument of writing is the true and whole will and testament of John Barclay of Warford County deceased that hath come to his hands or possession and that he doth not know of any other.

Certified by-

Abraham Jarrett - Reg<sup>r</sup> W<sup>o</sup> N. Cy.

Warford County Tct.

June 23<sup>rd</sup> 1800. Then came John Weeks and James M<sup>c</sup> Kilpatrick two of the subscribing witnesses to the foregoing Instrument of writing and made oath on the Holy Evangelys of Almighty God, that they did see John Barclay the testator therein named sign and seal the foregoing Instrument of writing and that they heard him publish pronounce and declare the same to be his last will and testament, that at the time of his so doing he was to the best of their apprehensions of sound disposing mind memory and understanding, and that they respectively signed their names as witnesses to this Will at the request and in the presence of the testator and in the presence of each other, and that Robert M<sup>c</sup> Fadin who also subscribed his name at the same time as a witness and at the request of the testator, and in the presence of the said John Weeks and James M<sup>c</sup> Kilpatrick

Certified by Abraham Jarrett  
Reg<sup>r</sup> W<sup>o</sup> N. Cy.

In testimony that the within foregoing is

a true transcript from the records in the office of the  
Reg<sup>d</sup> of Wills for Harford County.



I have herunto set my hand and  
affixed the seal of my office this first  
day of January Eighteen hundred and  
forty.

Jest - Thos J. Bond - R. W. H. Coz -

Whereupon the State of Maryland's writ of  
subpoena issued out of Harford County Court as fol-  
lows to wit

Subpoena

State of Maryland.

To the Sheriff of Harford County, Greeting.

We command you to summon  
Elizabeth M<sup>c</sup>Caustland, Robert M<sup>c</sup>Caustland, Thomas  
J. M<sup>c</sup>Caustland, Jane M<sup>c</sup>Caustland, Elizabeth M<sup>c</sup>Caust-  
land, Maria M<sup>c</sup>Caustland, Louisa M<sup>c</sup>Caustland, Mary  
Ann M<sup>c</sup>Caustland, Lucinda M<sup>c</sup>Caustland, John B.  
Ford and Martha his wife. that all excuses and  
delays set aside they be and appear before the Judges of  
Harford County Court, at the Court House in the same  
county on the thirteenth day of March next to answer unto  
the Bill of Complaint of Benjamin Weeks and others against  
them in our said Court exhibited: Hereof they are not  
to fail.



Witness the Honorable Stevenson Archer  
Chief Judge of our said Court the thirteenth  
day of December 1839.

Issued 29<sup>th</sup> day of January 1840.

Henry Dorsey - Clk -

And afterwards to wit on the 30<sup>th</sup> day of March  
in the year last aforesaid, the same being the return  
day of the foregoing writ, the Sheriff of Harford  
County to wit James Kean Esquire to whom said  
writ was directed made return thereof to the Court  
here thereon thus endorsed to wit -

"Non Sunt Jane Mary Ann  
summoned the others."  
James Kean Shff

And afterwards to wit on the 25<sup>th</sup> day of May  
in the year last aforesaid the following answer of the de-  
fendants was filed -

Answer  
of  
Defendants

To the Hon<sup>ble</sup>

The Judges of Harford County Court  
sitting in Equity -

The joint answer of Elizabeth  
M<sup>c</sup>Caustland, Thomas J. M<sup>c</sup>Caustland,  
Maria C. M<sup>c</sup>Caustland, Mary Ann M<sup>c</sup>Caustland,

Lucinda M<sup>c</sup>Causland, Jane M<sup>c</sup>Causland, Louisa M<sup>c</sup>Causland, Elizabeth M<sup>c</sup>Causland, John B. Foard and Martha his wife and Robert M<sup>c</sup>Causland to the bill of complaint of Benjamin Weeks & others filed in this Honourable Court.

These respondents in answering the said bill admit that the lands mentioned in the said bill is not susceptible of division according to the rights of the parties in interest without loss and injury, and they also admit that the said lands to be - property of the persons therein mentioned.

They therefore consent to a sale of the same as prayed in said bill but reserve the right to exhibit their claim to the proceeds of such sale, and to claim such portion thereof as the ancestor of Complainants would be entitled to if living -

Otho Scott

Sol for Defds.

This answer accepted without oath.

Wm B. Bond

Sol<sup>r</sup> for Compls.

Whereupon the Court here passed the following Decree to wit -

Decree	Benjamin Weeks	}	In Harford County
	& others		
	or		Court sitting in
	Elizabeth M <sup>c</sup> Causland	}	Equity -
	& others		

The proceedings in this cause having - submitted for Decree, and the same having been duly read and considered. It is on this twenty fifth day of May 1840 ordered adjudged and decreed by the Court that the lands and premises mentioned in the bill and proceedings in this cause be sold and the proceeds distributed among the persons entitled according to their respective rights and that William B. Bond be and he is hereby appointed trustee to make the said sale, whose duty it shall be before he proceeds to act as such trustee to file with the Clerk of this Court a bond conditioned for the faithful performance of his trust in a penalty of two thousand dollars payable to the State of Maryland and with security to be approved by this Court or one of the Judges thereof. He shall then give at least three weeks notice by public advertisement, and in such other manner as he shall deem expedient of the time place terms and manner of the said sale and shall proceed to sell the said lands at public sale to the highest bidder on the following terms to wit - one third of the purchase money to be paid in

cash on the day of sale, and the residue in two equal payments at six and twelve months credit, the purchaser giving bonds or notes for the credit payments with surety to be approved by the trustee bearing interest from the day of sale, and on the ratification of the sale and payment of the purchase money, the trustee is authorized to convey the said land to the purchaser.

And it shall be the duty of the trustee to report to this Court on oath all his actings and doings herein; and as a compensation for his trouble and skill the said trustee shall be allowed such commission on the proceeds of the said sale as shall be adjudged by the Court.

R. J. Magruder.

And afterwards to wit on the 26<sup>th</sup> day of May 1840 the Trustee filed in Court here the following bond to wit -

Know all men by these presents that  
 Bond we William B Bond and Alexander Norris  
 of of Harford County are held and firmly  
 Trustee bound unto the State of Maryland in the full  
 sum of Two thousand dollars current money  
 to be paid to the said State its certain Attorney or assigns  
 to which payment well and truly to be made and done  
 we bind ourselves, our heirs, executors and administra-  
 tors jointly and severally firmly by these presents.

Sealed with our seals and dated this 26<sup>th</sup>  
 day of May 1840.

Whereas the above named William B Bond has been appointed by Harford County Court as a Court of Equity trustee to make sale of the lands mentioned in the proceedings in the case of Benjamin Weeks and others against Elizabeth M<sup>c</sup>Cauleland and others in the said Court lately depending.

Now the condition of the above obligation is such that if the said William B Bond shall well and truly perform his duty as such trustee according to the terms of the Decree in said cause then this obligation to be void otherwise to be and remain in full force and virtue.

Signed sealed and delivered } W<sup>m</sup> B Bond Seal  
 in presence of Tho<sup>s</sup> Archer. } Alex<sup>r</sup> Norris Seal

The above bond was thus endorsed -

"Bond approved  
 T. Archer"

And afterwards to wit on the 22<sup>d</sup> day of November in the year 1841, the trustee filed in Court here the following report of his proceedings to wit -



Report of Benjamin Weeks }  
 of to others } In Harford County  
 Trustee vs Elizabeth M<sup>c</sup>Causland } Court as a Court of  
 to others } Equity

The undersigned trustee in the above case reports to the Court that having filed his bond duly approved and given notice of the time place terms and manner of the sale he offered the lands mentioned in the proceedings in this cause for sale at Dublin in the vicinity of said lands on the day of 1840 but no person bidding for the same a sum which your trustee thought he ought to sell the same for, he with the consent of several of the parties interested decided to postpone the said sale and did postpone the same to the eleventh day of July then next to wit in the year 1840 aforesaid. That on that day he again attended at Dublin and there sold one parcel of said lands to Benjamin Weeks to wit, beginning for the same at a large bounded chestnut tree on the north side of a branch a boundary of the grove running N 58 $\frac{1}{2}$  W 37 per to the peach bottom road then N 52 W to a stone near John Adams thence with a new road to a stone N<sup>o</sup> 8 of said tract and thence with the lines of the said tract to the beginning containing forty acres more or less for the sum of three hundred and forty five dollars, and that your trustee sold all the residue of the said lands to Jane A M<sup>c</sup>Causland, Thomas J M<sup>c</sup>Causland, John B Board, Eliza M<sup>c</sup>Causland, Maria C M<sup>c</sup>Causland, Louisa M<sup>c</sup>Causland, Mary Ann M<sup>c</sup>Causland and Lucinda M<sup>c</sup>Causland for the sum of two thousand and fifty five dollars.

That the first named purchaser has complied with the terms of the said sale to him, but that the purchasers of the residue have not; your trustee therefore prays that the sale above reported to Benjamin Weeks may be confirmed.

All which is respectfully submitted.

W<sup>m</sup> B Bond

Trustee.

W<sup>m</sup> B Bond the trustee above named comes into open Court and makes oath that the sales above reported were made openly fairly and bona fide and for the best price he could obtain.

Henry Dorsey - Clk.

Whereupon the Court here passed the following order of ratification nisi of Trustee's Report, which is as follows to wit.

Benjn Weeks & others }  
 Order vs Eliz<sup>th</sup> M<sup>c</sup>Cauleland } In Harford County  
 Miss } Court as a Court of  
 & others } Equity.

Ordered by the Court this 22<sup>nd</sup> day of Nov<sup>r</sup> 1841 that the sale made by William B. Bond Trustee to Benjamin Weeks be and the same is hereby ratified and confirmed unless cause to the contrary be shown on or before the first day of January next; provided a copy of this order be published in some newspaper printed & published in Harford County for three weeks before the said 1<sup>st</sup> day of January next.

John Furranie.

And afterwards to wit on the 7<sup>th</sup> day of March 1846, there was filed in Court here a printed advertisement of an authenticated copy of the order of ratification nisi of the Trustee's Report with the Printer's certificate annexed to wit -

Certificate of Publication I hereby certify that the annexed advertisement has been published in the Harford Republican a newspaper printed in Belle-Air Harford County - and for three weeks before the first day of January 1842.

Chas D. Bouldin.

And afterwards to wit on the 20<sup>th</sup> day of November 1847, the trustee filed the following petition in Court here to wit -

Petition of Trustee Weeks & others vs M<sup>c</sup>Cauleland & others } In Harford County  
 } Court as a Court of  
 } Equity.

William B. Bond the trustee in the above case shews to your Honours that in the year Eighteen hundred and forty, he sold the land mentioned in the proceedings in this cause except a small parcel to Thomas & M<sup>c</sup>Cauleland & others heirs at Law of George M<sup>c</sup>Cauleland who were themselves entitled to five sixths of the proceeds of said sale. That since that time the purchasers have sold and assigned all their interest in said land we purchased of your trustee to John B. Foard (who was himself as husband of one of the heirs of said George M<sup>c</sup>Cauleland) one of the original purchasers from your trustee, That by arrangement among the parties said Foard was to pay the trustee one sixth of said purchase money & obtain releases for the residue of the purchase money, that a part of this

sum has been rec<sup>d</sup> by the trustee, but the balance still re-  
mains unpaid.

Your trustee therefore prays your Honours to pass  
an order directing the said John B. Foard to pay to the said  
Trustee the balance of the said purchase money or bring into  
the same into Court or to shew cause to the contrary and in  
default thereof to issue attachment against said Foard  
and as in duty bound he will ever pray &c.

Wm B Bond  
Trustee -

Whereupon the Court here passed the following  
order to wit

Order of Court  
Ordered by the Court this 18<sup>th</sup> day of  
November 1847, That John B Foard pay to  
Wm B Bond trustee the purchase money men-  
tioned in the above petition or bring the  
same into Court or shew cause to the contrary  
on or before the 1<sup>st</sup> day of January next.

Jno C. Le Grand.

I assent to the passage of the above order.

Otho Scott  
Sol for Defd.