

to be produced on the part of the Complainants -  
 1<sup>st</sup>. Are you or not acquainted with the parties to this suit or either and which of them?  
 If yes how long have you known them and each of them?  
 2<sup>nd</sup> Were you or not acquainted with one John M<sup>c</sup>Clain formerly a resident of Frederick County  
 Is he dead or alive? If dead, did or did not he die intestate and when and where did he die?  
 3<sup>rd</sup> Did or did not the said John M<sup>c</sup>Clain leave children and grand children? If yes state  
 their names ages and present places of residence?  
 4<sup>th</sup> Did or did not the said John M<sup>c</sup>Clain die seized and possessed of certain real estate  
 described in Exhibits Nos. 1, 2, 3 & 4 and if yes? the said lands susceptible of partition among  
 all the parties interested? And would or would it not be for the benefit and advantage of  
 all the parties interested, that the said real estate be sold and the proceeds of sale divided  
 among the parties according to their several and respective interests? State any facts or  
 circumstances with your knowledge that may lead you to entertain that opinion.  
 5<sup>th</sup> Do you or do you not know of any matters or things that may be to the interest and  
 advantage to the Complainants in this cause, if you state fully all your knowledge here.

W<sup>m</sup>. J. & Chas<sup>s</sup>. Ross,  
 Solicitors for Complainants

Testimony

At the Execution of the annexed Commission issued out of the Circuit Court for  
 Frederick County, and to me directed, and empowering me to examine Evidence in the  
 Cause depending in the said Court, between Hiram M<sup>c</sup>Clain and others, as Complainants,  
 and John S. M<sup>c</sup>Clain and others as defendants, I, William S. Nelson, Commissioner therein  
 named, I did, on the 7<sup>th</sup> day of November Eighteen hundred and sixty four, at my office  
 in Frederick City, Maryland, then and there proceed to take the following testimony, namely  
 the Complainant filed with the Commissioner as Evidence Exhibits No<sup>s</sup> 1, 2, 3, 4 & 5 here-  
 with returned and there being no witnesses present to be examined and the Complainants  
 requiring time for the production of their evidences, the Commissioner adjourned the said  
 Commission to the 14<sup>th</sup> day of November, Eighteen hundred and sixty four, at which time  
 and at my Office aforesaid, I proceeded to take the following depositions, to wit:  
 Lewis Crawford, a witness of lawful age, produced on the part of the Complainants, being  
 duly sworn and examined to interrogatories filed with the Commissioner by the Complainants,  
 and herewith returned, deposes and says: -

To the first, That he is acquainted with the parties to this suit and has known them for  
 some years. -  
 To the 2<sup>nd</sup> That he was acquainted with John M<sup>c</sup>Clain formerly a resident of Frederick  
 County, Maryland - that he is dead - that he died intestate, in Frederick County, about two  
 years ago. -  
 3<sup>rd</sup> That John M<sup>c</sup>Clain left children and grand children, namely, Hiram M<sup>c</sup>Clain, a son,  
 Peter E. M<sup>c</sup>Clain, a son, and Catharine Ann, now wife of Oliver S. Barbaugh, all adults and  
 reside in Frederick County, John S. M<sup>c</sup>Clain, a son, and adult who resides out of the state  
 of Maryland and Selas M<sup>c</sup>Clain a son and infant under the age of twenty one years and  
 who resides out of the state of Maryland, Ellen E. J. daughter of Simon M<sup>c</sup>Clain, who  
 died before John M<sup>c</sup>Clain and Mary Ellen, daughter of Joseph M<sup>c</sup>Clain who died before  
 John M<sup>c</sup>Clain, both infants under the age of twenty one years and both reside in Frederick  
 County Maryland. -  
 To the 4<sup>th</sup> That John M<sup>c</sup>Clain died seized and possessed of the real estate described  
 in Exhibits No<sup>s</sup> 1, 2, 3 & 4, now shown him that said real estate is not susceptible of an advan-  
 tageous division amongst the parties interested and that it would be to the advantage

Equity,  
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