

of all parties concerned that the same should be sold and the proceeds of such sale be distributed amongst the parties entitled.

To the 5th That he knows nothing more than he has already answered, -  
Jacob L. Walker, 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 Complainant and herewith returned, deposes and says,

To the 1st That he knows the parties to this suit and that he has known them for some years,  
To the 2d That he knew John M. Clain, that he is dead, that he died intestate in Frederick County, Maryland, during the year Eighteen hundred and sixty two.

To the 3d That John M. Clain left children and grand children, namely Peter E. M. Clain a son, Hiram M. Clain, a son, Catharine A wife of Oliver S. Harbaugh, all adults and residents of Frederick County, Maryland, John S. M. Clain, adult son, who resides out of the State of Maryland and Elias M. Clain, a son, infant under twenty one years of age, who resides in the State of Ohio, Mary Ellen, a daughter of Joseph M. Clain, dec'd, who was a son of John M. Clain and Ellen C. A daughter of Simon M. Clain son of John M. Clain, who died before the said John M. Clain - that said Mary E. and Ellen S. J. are both infants under the age of twenty one years and both reside in Frederick County, Maryland.

To the 4th That said John M. Clain died seized and possessed of the real estate described in Exhibits No 1, 2, 3 and 4 and now here shewn to deponent - that the said real estate cannot be divided amongst the parties interested without loss and injury and that it would be to the advantage of all parties that the said real estate should be sold and the proceeds divided amongst the parties entitled thereto.

To the 5th That he knows nothing further, - There being no other witnesses present to be examined and the Complainants requesting no further time for the production of their evidence the Commissioner closed the said Commission and herewith returns the same under his hand and seal on this 16th day of November in the year 1864.

W. B. Nelson Comr

Endorsed - The execution of the within Commission will appear by certain schedules thereto annexed.

W. J. Nelson Comr

Exhibit  
A  
Testimony

State of Maryland Frederick County Jct:  
J. L. McLean Register of Wills for Frederick County, do hereby certify and attest, that on the 11th day of February 1862 Letters of Administration were granted by the Orphans Court for Frederick County to Hiram M. Clain on the Estate of John M. Clain late of Frederick County, dec'd. the said Hiram M. Clain having given bond with Leonard Harbaugh & Jacob Harbaugh sureties in the sum of one thousand dollars current money for the due performance of his said administration.

In Testimony whereof, I hereunto set my hand and affix the seal of Office this 3d day of November 1864.

J. L. McLean Register of Wills for Frederick County, No 3159 Equity.

Sever

Hiram M. Clain and Catharine M. Clain his wife and others

In the Circuit Court for Frederick County in Equity. October Term 1864.

John S. M. Clain, Elias M. Clain and others

This cause standing ready for hearing and the order of publication heretofore passed in this case having

Exhibit No 2  
H. M.