the Commissioners in this cause, the return of said Commissioners having been made and ratified in this cause - and John A. Warner and William H. Warner the heirs resident having refused by writing filed in this cause to take said lands at the valuation, - It is therefore this 22° day of August in the year Eighteen hundred and Sixty three by me Madison Nelson Circuit Judge for the third Judicial Circuit of the State of Maryland, and by the authority of the Circuit Court for Frederick County as a Court of Equity, ordered, adjudged and decreed that the said bill of Complaint be and the same is hereby taken pro confesso against the two absent defendants and it appearing to the Court here that the lands in question in this cause from the report and return of the Commissioners and other proceedings are not susceptible of partition without loss or injury to the parties interested, and that the resident heirs have refused to take the lands at the valuation, and that the non resident heirs have failed to appear and elect or refuse to elect to take said lands at the valuation although the order nisi has been duly published in the Frederick Examiner, -

It is therefore further ordered, adjudged and decreed that the property in the proceedings mentioned be sold, and that William H. Warner of Frederick County be and he is hereby appointed Trustee to make such sale, and that the course and manner of his proceedings shall be as follows, He shall first file with the Clerk of this Court a bond to the State of Maryland, in the penalty of Eight thousand dollars to be executed by himself, with two or more securities to be approved by this Court or the Clerk thereof conditioned for the faithful discharge of the trust reposed in him by this decree or which may be reposed in him by any future decree or order in the premises. - He shall then proceed to make sale of said lands and tenements having first given at least three weeks previous notice in one or more of the newspapers published in Frederick County of the time, place, manner and terms of sale which terms shall be, one third of the purchase money to be paid on the day of sale or ratification thereof by the Court at the election of the purchaser or purchasers the residue in one and two years from the day of sale, the purchaser giving notes for the same with approved security bearing interest from the day of sale. - And as soon as may be after any such sale or sales, the Trustee shall return to this Court a full and particular account of the same with an affidavit of the truth thereof and of the fairness of such sale or sales annexed, - and on ratification of such sale or sales by the Court and on payment of the whole purchase money and not before, the said Trustee by a good and sufficient deed to be executed agreeably to law, shall convey to the purchaser or purchasers of said property in fee simple the property to him, her or them sold, free, clear and discharged of the claim of all parties to this cause, and of any person or persons, claiming by, from or under them, and the said Trustee shall bring into this Court for distribution the money and notes arising from such sale - first deducting therefrom the costs of this suit - and such commission to the Trustee as the Court shall allow on consideration of the skill, attention and fidelity wherewith he shall appear to have discharged his trust. -

M. Nelson -

The Bond required by the foregoing Decree is recorded in Liber B.D. No 9 folios 230 - One of the Land Records of Frederick County. -

Trustee's Report

John A. Warner and Susan Warner his wife and others -
vs
Hezekiah Graff and others

No 3024 Equity. -

In the Circuit Court for Frederick County in Equity.

To the Honorable Madison Nelson Circuit Judge