of the State of Maryland and in the State of Pennsylvania, except William M. Sweeny who resides in Frederick County, Md and Columbia who is deceased.

To the 7th Int. That he was acquainted with Columbia Sweeny; that she is dead; that she died about two years ago in Frederick County aforesaid, intestate, unmarried and without any issue.

To the 8th Int. That the real estate described in Exhibit No 2 cannot be divided amongst the heirs at Law of said Christina Sweeny without loss and injury to the parties in interest; for the reasons that a considerable portion of said lands are in timber and one acre of the timber land is worth a great deal more than an acre of the cleared land which is very poor and because if said lands were divided the portions would not sell separately to any advantage but for a great deal less in proportion than the entire tract for the further reason that said parcels under the division would not be susceptible of advantageous cultivation and no person would be likely to buy the cleared portions without the wood land. To the 9th Int. That he knows nothing more than he has answered already to the foregoing interrogatories.

There being no other witnesses present to be examined and the Complainants requiring no further time for the production of further testimony the Commission was adjourned to the 16 day of January Eighteen hundred and sixty six, when the Commission closed the said Commission and herewith returns the same on the said 16th day of January in the year Eighteen hundred and sixty six. Witness my hand and seal on the day and year last aforesaid.

Wm B. Nelson Com. (Seal)

Endorsed. The Execution of the within Commission will appear by certain schedules thereunto annexed.

Wm B. Nelson Com (Seal)

Decree

Thomas Smith and Francina Smith his wife
vs
James Sweeny and others

No 3245 Equity.

In the Circuit Court for Frederick County in Equity.

The above cause standing ready for hearing and the order of publication heretofore passed in this cause having been duly published and the absent defendants having failed to appear and answer the Bill of Complaint. It is thereupon this first day of March Eighteen hundred and sixty six by the Hon. Madison Nelson Circuit Judge for the Fourth Judicial Circuit of the State of Maryland, and by the authority of the Circuit Court for Frederick County as a Court of Equity, adjudged ordered and decreed that the bill of complaint be and the same is hereby taken pro confesso as against the non-resident defendants William Hare and Mary E Hare his wife, Moses Esterlein and Agnes Esterlein his wife, Martha Jane Sweeny, William Kennedy & Christina Kennedy his wife. And it is further adjudged, ordered and decreed that the real estate in the proceedings mentioned be sold for the purpose of partition and that Charles W Rop of Frederick County, be, and he is hereby appointed a Trustee to make the said sales, and that the course and manner of his proceeding shall be as follows. He shall first file in the Clerk's Office of this Court a bond to the State of Maryland, executed by himself with a surety or sureties to be approved by the Court or the Clerk thereof, in the penalty of four thousand dollars conditioned for the faithful performance of the trust reposed in him by this decree, or which may be reposed in him by any future order or decree in the premises. He shall then proceed to make sale of the said real estate having first given at least three weeks previous notice, inserted in some newspaper printed in Frederick County, and such other notice as he may think proper of the time, place, manner and terms of sale, which terms shall be as follows: One third of the purchase money to be paid on the day of sale, or on the ratification thereof by the Court, the residue in two equal annual payments the purchaser or purchasers giving his, her or their notes with approved security and bearing interest from the day of sale; and as soon as may be convenient after any such sale; or sales, the said Trustee shall

Trustee Report