

are of age and who are under twenty one years of age. ~ 2^d Is Mary Gauer dead, if so, when and she die, and what children did she leave, their ages and who do they live. ~ 3^d Is Catharine Hays dead, if so, when and she die, and what children did she leave, their ages and where do they live. ~ 4th Is Mary Ann Gauer dead if so, when and she die, and did she leave any children, if no children, who are her brothers and sisters? ~ 5th Do you know the land named in this case, if so, look at Exhibit A and state whether that is the land described in said deed. ~ 6th Can said land be divided and laid off among all the parties, with advantage to them all, if not state your reasons ~ 7th Would it be to the interest and advantage of all the parties that said land should be sold and the proceeds divided among those interested, if so. State your reasons.

John A Lynch
Sole 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 evidences in the case therein depending, between John J Gauer and others, as Complainants and Margaret and Joseph Hays as defendants, I, William S. Nelson Commissioner therein named, did on the 13th day of January Eighteen hundred and sixty six at my Office in Frederick Md. then and there proceed to take the following testimony to wit: ~ The Complainants filed with the Commissioner as evidence Exhibits A and B herewith returned, and there being no witnesses present to be examined, said Commission was affirmed to the 18th day of January, eighteen hundred and sixty six, when I proceeded to take the following depositions, to wit: ~ John P. Gauer, a witness of lawful age, produced on the part of the Complainants being duly sworn and examined to interrogatories filed with the Commissioner and herewith returned, deposes and says. ~

To the first: ~ That he knows all of the parties to this suit and that they all reside in Frederick County, Md. except Margaret Hays and James W Gauer, who reside in the State of Pennsylvania that they are all adults, except Joseph and Margaret Hays, who are infants under the age of twenty one years. ~ To the 2^d: ~ That Mary Gauer is dead, that she died last October, leaving the following children, namely, John P. George W. Joseph, Henry, Ann R. married to Hezekiah Coffinberger, Elias Gauer, Susan W. married to Geo Smith and Peter Gauer, all adults and all reside in Frederick County Maryland. ~ To the 3^d: ~ That Catharine Hays died about sixteen years ago, leaving the following children, namely, Susan, married to William Palmer, James Gauer, Margaret and Joseph Hays, all adults except Margaret and Joseph Hays, who are infants under twenty one years of age, that Margaret Hays and James Gauer reside in the State of Pennsylvania and the others in Frederick County Md. ~ To the 4th: ~ That Mary Ann Gauer is dead, that she died about nine years since and that she left no children, that the children of Mary Gauer were the brothers and sisters of the said Mary Ann Gauer. ~ To the 5th: ~ That he knows the real estate named in the proceedings in this case, that he looks at Exhibit A, now heretofore shown him and that the land therein described in said Exhibit is the said land. ~ To the 6th: ~ That said real estate is not susceptible of an advantageous division amongst the parties interested and that loss and injury would arise to all parties concerned therefrom, that said real estate consists of about fifty acres which would have to be divided into seven or eight portions and that such portions would be too small for cultivation or for advantageous sale. ~ To the 7th: ~ That a sale of said real estate and a distribution of the proceeds thereof amongst the parties entitled would be to the benefit and advantage of all the parties interested. ~

Charles Hooper, 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 knows all the parties to this suit, that they all reside in Frederick County Md. except Margaret Hays and James Gauer, who live in the State of Pennsylvania, and that Joseph

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