

Caroline Weller and others, and said answer and petition of Ralph L. Hall, as follows
 FIRST,-Your petitioner charges that by the will of Daniel Kolb, deceased, the farm known as "The Homestead" decreed to be sold in this case, was devised to Sophia M.A. Kolb for and during the term of her natural life, and Charles H. Utermehle was appointed Executor of said Will, and "for the purpose of settling his estate and for the division and partition thereof, in equal shares, to his heirs at law," said testator did give, devise, and bequeath all the rest and residue and remainder of his estate unto said Executor, and authorized and empowered him, in his discretion, to sell, dispose of, and convey any or all portion of the estate, as will more fully appear by reference to said will, a certified copy of which is filed as Exhibit No. 1 in the above case.

SECOND,--That said testator by the 6th paragraph of a codicil to said will, duly probated,--part of said Exhibit No. 1,--revoked the appointment of said Charles H. Utermehle as Executor of said will, and appointed testator's sister, Naomi Utermehle, Executrix of said will, and devised to his said Executrix, "her heirs, executors, administrators and assigns," all the rest and residue of his estate not specifically devised and bequeathed in said last will and testament and said codicil, in trust to sell and dispose of the same and valid conveyance thereof to make, and to divide and distribute the net proceeds among all the testator's heirs at law, share and share alike.

THIRD,--That part of the rest and residue of testator's estate thus divided and bequeathed and his said Executrix, in trust to sell and divide the proceeds, was the interest in remainder in said farm, "The Homestead," devised to said Sophia M.A. Kolb for life, and which was not sold by said Executrix in her lifetime, and upon the death of said Sophia M.A. Kolb, the said Naomi Utermehle, Executrix and trustee under said will being dead there was no person in being authorized to sell said farm, and your Petitioner being the only living brother of said Daniel Kolb and one of his heirs at law, was interested in the sale of said real estate as directed by said will, and had the right to file his petition in the Orphans Court of Frederick County and be appointed administrator de bonis non with the will annexed of the said estate, the said Orphans Court having concurrent jurisdiction with your Honorable Court, and your Petitioner was alone entitled under the law to be appointed such Administrator de bonis non C.T.A., but in order to have the benefit of the superior legal knowledge of your Honorable Court in the distribution of the proceeds of said estate he filed his petition accordingly in your Honorable Court.

FOURTH,-It is true the decree for sale was passed upon the ex parte petition of your petitioner,--as was perfectly right and proper,--the said testator having directed by his will that said property should be sold for distribution among his heirs at law, and the person appointed to make such sale having died, and your petitioner being a person interested in the sale of the property, your Honorable Court was directed authorized by the express language of the Statute to pass said decree of sale upon your Petitioner's petition.

FIFTH,- That it is true the Trustees appointed by said decree have advertised said property for sale on the 21st day of August instant, which it was their duty to do and which it was to the interest of all persons in interest that they should do, as the party now in possession of said farm was only the tenant of a life interest therein and has no legal authority to put out crops of grain after the death of the life tenant, and it is eminently proper and necessary that said farm should be sold at the earliest date possible so that the purchaser shall be able to seed a crop of grain in the fall of 1915.

SIXTH,- That the question in controversy between said Caroline Weller and others,