

James McKensie, David  
Daniel and others.

Philip Knight, John  
Jeffries and others.

N<sup>o</sup> 534 Equity.

Be it remembered that here to fore  
on the tenth day of April in the year eighteen hundred and  
forty eight, the said James McKensie and others by their solicitor  
Thomas Perry filed in court their bill of complaint in the words  
following to wit:

To the Honorable the Judges of Allegany County  
Court as a Court of Equity.

The bill of complaint of James McKensie, David Daniel and Rebecca his wife, George McKensie, Isaac Stado and Susanna Stado his wife, John Carter and Rosanna his wife, Granahaw Morris and Anna Morris his wife, Joseph McKensie and Sarah Ann McKensie, Julianna Johnson, Henry Stade, Army Thompson, Isaac Stade, John Smith and Elizabeth Smith his wife, John Whitfield and Sarah his wife, Nathan Arnold and Nelly his wife, John Smith and Catharine his wife, Rachael Stade, Miles Harn and Ann Harn his wife, Jesse Lilly and Jesse McKensie, respectfully represent that Moses McKensie, junior, late of Allegany County and State of Maryland died intestate, seized and possessed of and equitably entitled to a large real estate or property lying and being in Allegany County and State of Maryland and that said property was capable of division among those entitled to the same and that it would be for the advantage and benefit of all parties interested, if the same was sold and the said real estate ought to be sold by and decree of your Honorable Court and the proceeds divided among those entitled to the same. That said Moses died leaving his heirs and the following persons who are now entitled to the same: Joshua McKensie, who has also died and who died leaving as his heirs the following named persons, to wit: James McKensie, David Daniel and Rebecca Daniel his wife, George McKensie and Susanna Stado, wife of Isaac Stado, Moses McKensie, Army McKensie wife of Samuel Carter, Rosanna Carter wife of John Carter, Anna Morris, wife of Granahaw Morris, Joseph McKensie and Sarah Ann McKensie, all of which said persons of said Joshua McKensie and their husbands are parties to the complainants in this bill. Your complainant further states that said Moses McKensie also died, leaving Sarah Johnson his sister and who has since died, leaving surviving her, Julianna Johnson, her daughter, and the said Moses also died leaving the following named persons who are the children of one Rachael Stade, deceased, a sister of Moses McKensie, to wit: Sarah Whitfield, wife of John Whitfield, Nelly Arnold wife of Nathan Arnold, Catharine Smith, wife of John Smith, Henry Stade and Rachael Stade. And the said Moses also died leaving the child

decease of his sister Nancy Gray, who died leaving Ann the  
wife of Miles Mann and Jesse Lilly. And said Moses  
died leaving his brother Jesse McKinnis, all which persons  
aforesaid are entitled as aforesaid and the husbands and  
plaintiffs in the bill. And the complainants further state  
said Moses also left Elizabeth Knight who has since died leaving  
surviving her, her husband Philip Knight and the following children  
born to wit: Daniel Knight, Caroline Knight, William Knight  
and Margaret Knight which said children are infants under the  
age of twenty one years. And said Moses also died leaving  
him a sister, Margaret Jeffries, wife of John Jeffries. And the  
said Philip Knight, Daniel Knight, Caroline Knight, William  
Knight, Margaret Knight, John Jeffries and Margaret Jeffries  
his wife all reside in Allegany County and State of Maryland  
that several of the complainants live out of the State of Maryland.  
Your complainant further state that they are without  
aid; except in your Honorable Court where matters of this  
kind are cognizable to the end therefore that the said complainants  
may answer this bill and the premises as fully and particularly  
as if they were specially interrogated therein and that a  
commissioner may be appointed to make a sale of said real estate and the  
proceeds distributed among those entitled to the same. And that  
your honors will grant unto the complainants such other and  
further relief as the premises and the nature of the case entitle  
them to. May it please your Honors to grant unto your complainants  
the writ of subpoena, directed to the Sheriff of Allegany  
County, Maryland, commanding to summon said Philip Knight,  
Daniel Knight, Caroline Knight, William Knight, Margaret  
Knight, John Jeffries and Margaret Jeffries his wife, to appear  
in this Court at some certain day to be therein named to answer  
the premises and abide by and perform such decree as may be  
passed therein.

Thomas Perry,  
Solicitor for Complainants

Whereupon issued subpoena in form following to wit:  
Maryland, Set:

The State of Maryland to Philip Knight, Daniel  
Knight, Caroline Knight, William Knight, Margaret Knight,  
John Jeffries and Margaret Jeffries of Allegany County,  
Maryland. You are hereby commanded that all excuses set apart  
you have usually appear before the Judges of Allegany County  
sitting as a Court of Chancery, to be held at the Court House  
in the town of Cumberland in and for said County on the  
Monday of April instant, to answer the complaint of James  
McKinnis, David Davids and others against you in said Court  
libited. Hereof fail not, as you will answer the contrary thereof  
at your peril. Witness the Honorable Robert W. Martin, Chief  
Judge of said Court, the 11<sup>th</sup> day of October 1827. Issued the  
day of April 1828. Henry Price, Clerk.

Which said third Monday of April, being the return of this  
aforesaid, the Sheriff of Allegany County aforesaid within the  
unit aforesaid was in firm aforesaid directed to be made, made  
return of the same to the Court thus endorsed, to wit:  
"Sum. McRawling Shff."

And afterwards writ on the fourteenth  
day of August in the year last aforesaid, was filed in Court here  
the following answers, to wit:  
James M<sup>c</sup>Kinzie & others

vs  
John Jeffries and Margaret  
his wife and others.

The separate answer of John Jeffries  
and Margaret his wife to the bill  
of Complaint filed against them in  
this cause.

These respondents know nothing about any land belonging either  
legally or equitably to Messrs M<sup>c</sup>Kinzie Junior, and cannot therefore  
admit the allegations contained in the bill of complainants, but  
deny the same and put complainants to the proof thereof. They  
however do admit the death of the said Messrs M<sup>c</sup>Kinzie Sr. inter-  
late, but deny that his heirs at law are properly stated in the  
bill of complaint. The bill omits to mention Priscilla Johnson  
who was a sister of said Messrs M<sup>c</sup>Kinzie Sr. and who is now dead.  
These respondents further answer and say, that if the complain-  
ants should make it appear that Messrs M<sup>c</sup>Kinzie Junior, was  
entitled to the land, which they are seeking by the bill in this  
case to have sold, that the same is capable of a division and that  
a division thereof among those entitled, would be far more advan-  
talous than a sale thereof. Your respondents therefore pray  
that the same may not be sold.

George A. Peano,  
Solicitor for Respondents.

State of Maryland, Allegany County, to wit:

Be it remembered and it is truly certified that on this 7<sup>th</sup> day  
of July 1828, before the subscribed a Justice of the Peace of the  
State of Maryland, in and for Allegany County, personally  
appeared John Jeffries and Margaret his wife and made oath  
in the Holy Evangel of Almighty God that the above answer  
is true to the best of their knowledge and belief.

Subscribed

Nadob Clark, J. P.

And afterwards writ on the nineteenth day of August in the  
year last aforesaid, was filed in Court here, the following amend-  
ed bill, to wit:

James M<sup>c</sup>Kinzie & others

vs  
John Jeffries & Margaret  
his wife and others

In Allegany County Court as a Court  
of Equity.

The amended bill of com-  
plaint of said James M<sup>c</sup>Kinzie and others in the above case, res-  
pectfully represent, that since filing the original bill of complaint  
and which your complainant pray may be taken as a part of this

amended bill of complaint, your complainants have demurred that said Elizabeth Stright, the wife of said Philip Stright, leaving surviving her, Sidney Stright, of Allegany County who is also a child of said Elizabeth and that said Sidney is entitled with said brother and sisters to an equal share thereof in said real estate. That your complainants would make said Sidney a party defendant in said bill of complaint. That she is an infant under the age of twenty one years. The complainants therefore pray that the original bill of complaint may be amended by making said Sidney a party defendant in said cause and that this an amended bill may be made a part of said original bill of complaint. And the complainants pray that a subpoena may be issued against said Elizabeth Stright, Daniel Stright, Caroline Stright, William Stright, Margaret Stright and Philip Stright, to be and appear in Court at some certain day to be therein named, to answer the premises and the original bill and this an amended bill of complaint. And grant unto the complainants such other further relief as the premises and the nature of the case entitle them to. And as in duty bound will ever pray.

Thomas Perry

Solicitor for Complainants

James McStriggie and others

vs  
John Jeffries and others

In Allegany County Court as  
Court of Equity.

The foregoing bill having been read and considered, It is thereupon the 9<sup>th</sup> day of August 1848 ordered and adjudged that the original bill be amended as prayed and that the foregoing subpoena be and is hereby made a part thereof and that subpoenas be issued as prayed.

Attest.

And afterwards was filed in Court here the following agreement to wit:

James McStriggie & others

vs  
John Jeffries & others.

In Allegany County Court as also  
of Equity. No 780.

In this cause we agree that a commission may be issued to George W. Price Esq. to take testimony in this case.

Thomas Perry

Solicitor for Complainants.

George A. Penn

Solicitor for John Jeffries & others

Whereupon commission issued in form following, to wit:

Maryland, Allegany County, Oct 2

The State of Maryland to George W. Price, Esquire, of Allegany County in the State of Maryland, greeting: Be it known that you are appointed commissioner to examine witnesses in a case



depending in Allegany County Court as a Court of Equity, between James McKensie and others complainants and Philip Knight, John Jeffries and others defendants; Therefore you are requested, having first taken the oath hereunto annexed and also administered the annexed oath, to the person whom you shall appoint as clerk to attend the execution of this commission, that at such time and place as to you shall seem convenient, you cause to come before you, all such witnesses as shall be named or produced to you by either the complainants or defendants and that you examine them upon their corporal oaths, to be by you administered on the Holy Evangelist of Almighty God, touching their knowledge or remembrance of any thing that may relate to the cause aforesaid; and that you cause notice to be given to the parties or their attorneys, of the execution, of this commission before you execute the same, and having reduced the depositions of the witnesses, so taken by you into writing, you send the same with this commission, closed under your hand and seal to the said Court, with all convenient speed. Witness, the Honorable Robert A. Martin Esquire, Chief Judge of our said Court, the 16<sup>th</sup> day of April 1849. Issued the 21<sup>st</sup> day of June 1849.

Henry Bruce, Clerk  
 Allegany County, Maryland,  
 Commissioners oath.

You shall, according to the best of your skill and judgment, truly, faithfully and without partiality to any or either of the parties, take the examinations and depositions of all and every witness and witnesses produced and examined by either of the commission hereunto annexed upon the interrogatories now or which may hereafter, before the said commission is closed, be produced to and left with you, by either of the said parties; so help you God. Sworn before

Joseph M. Byrne J.P. (seal)

The interrogatories filed and sent out with the above commission, are in the words following to wit:

James McKensie and others }  
 vs } In Allegany County Court as a  
 John Jeffries and others } Court of Equity.

Interrogatories to be proposed to witnesses to be produced on the part of the complainant.

- Q<sup>1</sup> Are you or not acquainted with the parties to this suit or either of them and which of them? If yes, how long have you known them and each of them.
- Q<sup>2</sup> Did you or not know Moses McKensie jr. late of Allegany County dec? If yes, when did he die and how long since.
- Q<sup>3</sup> Did or not the said. Moses McKensie jr. die leaving real estate in the county of Allegany County to which he was legally and equitably entitled.
- Q<sup>4</sup> Look upon the papers now shown you marked Exhibit "A" and Exhibit "B" and state whether or not the persons therein mentioned, are not the proper and all the heirs (at the time living) of Moses McKensie jr. dec?

It is not Priscilla Johnson, sister of said Moses McKensie, dead, and died leaving no children or legal heirs at law.

Int. 5<sup>th</sup> Is or is not the land mentioned in the 3<sup>d</sup> Interrogatory and of which you have been speaking and stated to be the land of Moses McKensie Jr. capable of a division among heirs at law, of the said McKensie. And whether or not it be of more advantage and benefit to have the same sold and the proceeds thereof distributed among those entitled thereto.

Int. 6<sup>th</sup> Do you or not know of any other matter or thing which would be of advantage or benefit to the complainant. If so state the same as fully and at large, as if you were being interrogated.

Thomas Perry,

Sol. for Complainant.

And afterwards to wit, the Commissioner aforesaid, made return of the said commission to the Court thus endorsed.

At the execution of the annexed commission, I, J. W. of Allegany County Court as a Court of Equity, and to me directed and empowering me to examine evidence in the cause pending in the said Court, between James McKensie and others as complainants and John Jeffries and others as defendants, J. George B. M. Price, Commissioner therein named, having on the 21<sup>st</sup> day of August at Cumberland, pursuant to proper notice thereof given to the said parties and taken the oath and did to the said commission, did proceed thereon and there, to take the following depositions to wit:

Dece McKensie of D. a witness of lawful age, produced on the part of the complainant, being duly sworn and examined do to interrogatories filed with the commissioner by the complainant and hereunto returned, deposes and says:

To the 1<sup>st</sup> Interrogatory That he is acquainted with the parties to the cause above named and has known them for many years.

To the 2<sup>d</sup> Interrogatory That he did know said Moses McKensie and knew him for a long time. He died about ten years ago at Wheeling, Va.

To the 3<sup>d</sup> Interrogatory. That the said Moses McKensie Jr. owned property, and his father came to me to write the deed from him to said Moses. I did not write the deed, but sent him to Mr. Skilo. I believe he got the deed for the land from his father. Moses McKensie Jr. was taxed with the lands.

To the 4<sup>th</sup> Interrogatory. That the persons named in the papers shown me, marked exhibit A. and Exhibit "B" are all the heirs I think, at this time living of the said Moses McKensie Jr. I know of no other Priscilla Johnson, sister of said Moses McKensie Jr. is dead, she died in the year 1846, and died leaving no children or heirs at law.

To the 5<sup>th</sup> Interrogatory. I would say it was not capable of division. I think it would sell for as much again, if sold in one tract.

It would be of more advantage and benefit to the heirs to have it sold and the proceeds distributed among them.  
To the 6<sup>th</sup> Int. He knows nothing further.

And at the same time and place also appeared Solomon Robinson, 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 1<sup>st</sup> Interrogatory, That he is acquainted with the parties complainants and defendants and has known them for a long time.  
To the 2<sup>d</sup> Interrogatory, That he did know said Moses McKensie Jr. He died about ten years ago.

To Interrogatory 3<sup>d</sup> I think when he died, he died leaving real estate to which he was both equitably and legally entitled to.

To the 4<sup>th</sup> Interrogatory, I believe the persons named in the papers marked Exhibit "A" and Exhibit "B" and now shown me, are all the heirs at-law of Moses McKensie Jr. I know Poirell a Johnson, she is dead; she was the sister of Moses McKensie Jr. She died, leaving no children or heirs at-law.

Interrogatory 5<sup>th</sup> I think it incapable of division. It would be more beneficial and advantageous to have it sold and the proceeds thereof distributed among the heirs or those entitled thereto.  
To the 6<sup>th</sup> Int. He knows nothing further.

There being no other witness to examine and neither party desiring further time for the production of his evidence, the commissioner closed the said Commission and herewith returns the same under his hand and seal this 20<sup>th</sup> day of August 1849.

L. B. M. Price seal  
Commissioner.

And afterwards writ on the twenty first day of June in the year last aforesaid, was filed in court here the following agreement:

James McKensie & others

vs  
John Jeffries & Margaret and others

In Allegany County Court as a Court of Equity N<sup>o</sup> 734.

In this case we agreed that a commission may be issued to Samuel P. Smith, James Percy and Jonathan Barredolo, Paul Butler and George Long for the purpose of ascertaining whether said land is capable of partition among those entitled to the land of which said Moses McKensie junior died seized and possessed. And that said commission may be issued in the usual form. &c.

George A. Pease for  
John Jeffries & wife.  
Thomas Perry  
for Complainants.

Whereupon issued commission in form following to wit:  
State of Maryland, Allegany County, sh<sup>t</sup>:  
The State of Maryland to Samuel P. Smith, James Percy, Jonathan

Barrett, Paul Butler, and George Long, of Allegany County  
meeting, whereas James McKennie, David Daniels and  
his wife, Moses McKennie, Isaac Wade and Susanna  
his wife, Moses McKennie, Samuel Porter and Ann M. Porter  
his wife, John Carter and Rosanna his wife, Branchaw Morris  
Anna Morris his wife, Knoch McKennie and Sarah Ann Wells  
Julian and Johnson, Henry Wade, Mary Thompson, Jean  
John Smith, and Elizabeth Smith his wife, John Whitfield  
Sarah his wife, Nathan Arnold and Nelly his wife, Catharine  
and Catharine his wife, Rachel Wade, Miles Harrow and Ann  
his wife, Jesse Lilly and Jesse McKennie by their petition to  
Judges of Allegany County Court as Court of Equity, hath  
forth that Moses McKennie junior, late of Allegany County,  
State of Maryland died intestate, seized and possessed of  
equitably entitled to a large real estate or property lying  
being in Allegany County and State of Maryland. That  
Moses died leaving his heirs the following persons who are  
entitled to the same, Joshua McKennie, who has also died  
intestate leaving as his heirs the following named persons,  
James McKennie and Susanna Wade wife of Isaac Wade,  
McKennie, Ann M. Porter, wife of Samuel Porter, Rosanna  
wife of John Carter, Anna Morris, wife of Branchaw Morris, and  
McKennie and Sarah Ann McKennie, all of which said heirs of  
said Joshua McKennie and their husbands are part of the com-  
plainants in this bill. The complainant further states that  
said Moses McKennie, also died, leaving Sarah Johnson his  
and who has since died leaving surviving her, Juliana Johnson  
her daughter. And the said Moses also died leaving the follow-  
named persons who are the children of one Rachel Wade, deceased  
a sister of Moses McKennie to wit: Sarah Whitfield, wife of John  
Whitfield, Nelly Arnold, wife of Nathan Arnold, Catharine Smith  
wife of John Smith, Henry Wade and Rachel Wade. And that  
Moses also died leaving the children of his sister Nancy Gray  
died leaving Ann Harrow, wife of Miles Harrow and Jesse Lilly  
said Moses also died leaving his brother Jesse McKennie, all which  
persons aforesaid are entitled as aforesaid and the husbands as  
complainant in the bill. And the complainant further states  
said Moses McKennie, also left Elizabeth Knight who has since  
died leaving surviving her, her husband Philip Knight and the  
following children, to wit: Daniel Knight, Caroline Knight, Will  
Knight and Margaret Knight, which said children are infants  
under the age of twenty one years. And said Moses also died leav-  
surviving him a sister Margaret Jeffries wife of John Jeffries  
And that said Philip Knight, Daniel Knight, Caroline Knight  
Hillman Knight, Margaret Knight, John Jeffries and Mary  
Jeffries his wife, all reside in Allegany County and State of Mar-  
land - That several of the complainants live out of the State of  
Maryland. They have therefore prayed that partition of the  
said estate may be made between the aforesaid heirs according



according to their several just proportions, agreeably to the Act of Assembly, in such case made and provided, which said prayer hath been granted: and it being suggested to the said Court that you are discreet and sensible men, within the said County and the said Court having great confidence in your prudence and integrity have therefore assigned, commissioned and appointed and do hereby assign, commission and appoint you or a majority of you (having first taken the oath hereunto annexed) to adjudge and determine whether the said estate will admit of being divided without loss or injury to all the parties entitled: and to ascertain the value of the said estate in current money, taking into consideration any incumbrance thereon and to ascertain the value of the said estate, subject to the incumbrance and if the said estate can in your opinion and judgment or in the opinion and judgment of a majority of you, be divided without loss or injury to all the parties entitled, then to divide and make partition of the same fairly and equally in value, between all the parties interested, according to their several just proportions; then you or a majority of you, shall divide the estate into as many parts as it is susceptible of, without loss and injury to all the parties entitled and ascertain the value of each part of such estate in current money subject to any incumbrance thereon: and if in your opinion and judgment, or in the opinion and judgment of a majority of you the said estate cannot be divided without loss or injury to all the parties, then you or a majority of you, shall make return to the said County Court of your judgment and the reasons upon which the same was formed and the real value of the said estate in current money, subject to the incumbrance, if any thereon: and if you or a majority of you, shall determine that the said estate can be divided in either of the ways hereinbefore mentioned, without loss and injury to all parties, then you shall cause the lands to be surveyed and laid out by the county surveyor or such other person as you may think qualified, in case the estate consists of lands and if the said estate shall be equally divided between all the parties interested, according to their several just proportions, then you or a majority of you shall allot to the several parties their respective shares of the said lands: and in case the said estate shall consist of houses, then you or a majority of you, shall make allotment and partition between the parties, and you or a majority of you are hereby empowered and directed to ascertain and lay off the widow's dower in and to the lands and tenement of the estate, before you shall proceed to divide or value the same and you or a majority of you shall make the ascertainment and location of such dower, a part of your return to this commission: and you or a majority of you shall cause notice to be given to all parties concerned, by advertisement set up at the Court House and in such other public place in said County as you may direct at least thirty days previous to your proceeding to execute this commission; and you or a majority of you are appointed commissioners to proceed in the premises according to the directions of an act of the General Assembly of all England passed

at December Session 1820 Chapter 191 entitled "An Act to  
bring into one system the laws of direct descents;" and you or some  
of you, having made partition or allotment in manner  
said, shall make return of your proceedings to the next Court  
to happen thereafter. Witness the Honorable Robert Wallace  
Chief Judge of our said Court the 16<sup>th</sup> day of April 1829. - See  
the 7<sup>th</sup> day of September 1829.

Henry Stone, Clerk  
Commissioners oath.

Be it remembered that on this 28<sup>th</sup> day of Sept. in the year  
eighteen hundred and fifty, personally appeared Samuel P.  
James Peavey and Paul Butler, before the subscriber one of the  
Justices of the Peace in and for Allegany County, and severally  
swore on the Holy Evangelists of Almighty God, that they would  
and faithfully perform the duties required of them under the  
Act of Assembly therein referred to, and that they would proceed in the  
execution and completion of the said commission, without  
partiality or prejudice and according to the best of their judgment  
and understanding. Signed before

John White.

And afterwards the commissioners aforesaid made return of the  
said commission in the words following to wit:

To the Honorable the Judge of Allegany County, Sec.  
The subscribers commissioners appointed by a commission issued  
out of Allegany County Court, sitting as a Court of Equity, in case  
wherein James McKemie and others complainants and John  
and Margaret his wife defendants under which commission  
was annexed, do hereby certify that after having taken the  
annexed into the said commission, first to be taken, and given  
notice to the parties of the time and place of our meeting, made  
in pursuance of said notice meet on the land mentioned in  
said commission on the 28<sup>th</sup> day of March and done whatever was  
required and necessary first to do, in pursuance of said commission  
and now make the following report as their judgment and decision.

We the subscribers commissioners think and so report, that  
the land mentioned in said commission is incapable of division  
out great loss and injury to all parties therein interested, and  
the following reasons to wit: The said lands comprised in  
said farm and upon which very ordinary improvements are made  
and there being a large number of heirs and persons interested  
a division therefore, would give to each but a small portion of  
said farm and which would be worthless and of no use so far as  
said farm is concerned or for any other purpose, and which would be  
but a small pittance (if indeed any at all) to those entitled to it.  
It is for the above reasons (as well as for others that we might men-  
tion but the above being sufficient to induce us to report against  
a division) that we do judge the said land to be incapable of  
division amongst the heirs. We further report, that we believe  
as so report that it would be to the advantage of those entitled

shares of the said land were sold and proceeds distributed to those entitled to the same. We further report that we have adjudged and valued the said lands to be worth the sum of five hundred and fifty dollars over and above all incumbrances and that we know of no incumbrances. Given under our hands and seals this 28<sup>th</sup> day of September in the year of our Lord one thousand eight hundred and fifty.

Saml P Smith  
James Perou  
J. Butler

(Seal)  
(Seal)  
(Seal)

And on the twenty fourth day of December in the year eighteen hundred and fifty was issued subpoena in form following to wit: Maryland, etc:

The State of Maryland to Sidney Knight, Daniel Knight, Caroline Knight, William Knight, Margaret Knight and Philip Knight of Allegany County, Greeting: You are hereby commanded that all excuses set apart you personally appear before the judges of Allegany County Court, sitting as a Court of Chancery, to be held at the Court House in the Town of Cumberland, in and for said county, on the first Monday of January next, to answer the bill of Complaint of James McKensie and others against you in said Court exhibited. Hereof fail not as you will answer the contrary at your peril. Witness the Honorable Robert A. Martin, Chief Judge of said Court the 8<sup>th</sup> day of October 1849. Issued the 24<sup>th</sup> day of December 1849.

Mc Kenzie, Clerk.

At which said first Monday of January, being the return day of the foregoing writ, the Sheriff of Allegany County, to wit, John Barnard, Esquire, made return of the same to the Court here to wit: "I do return that I have served the writ on the defendants." John Barnard, Sheriff.

And afterwards to wit on the 28<sup>th</sup> day of December in the year eighteen hundred and fifty, was issued subpoena in form following to wit: Maryland, etc:

The State of Maryland to Sidney Knight, Paul Knight, Caroline Knight, William Knight, Margaret Knight and Philip Knight of Allegany County, Greeting: You are hereby commanded that all excuses set apart, you personally appear before the judges of Allegany County Court, sitting as a Court of Chancery to be held at the Court House in the Town of Cumberland in and for said County on the first Monday of January next, to answer the complaint of James McKensie David Daniels and others against you and others in said Court exhibited. Hereof fail not as you will answer the contrary at your peril. Witness the Honorable Robert A. Martin, Chief Judge of said Court, the 14<sup>th</sup> day of October 1850. Issued the 24<sup>th</sup> day of December 1850.

Henry Prince, Clerk.

At which said first Monday of January, being the day of the return.

of the last aforesaid writ, the Sheriff of Allegany County, made return of the same to the Court here thus endorsed writ: "Now let John Darnard Shff."

And afterwards on the twenty fourth day of March in the year eighteen hundred and fifty one, was issued subpoena in form following writ: Maryland, Set:

The State of Maryland to Sydney Knight, Caroline Knight, William Knight, Margaret Knight and Philip Knight of Allegany County, greeting: You are hereby commanded that all excuses set apart, you appear before the judges of Allegany County Court, sitting as a Court of Chancery to be held at the Court House, in the town of Cumberland in and for said County, on the third Monday of April next, to the Bill &c. of James McKensie and others against you and others in said Court exhibited. Obey or fail not, as you will answer contrary at your peril. Witness the Honorable Robert W. Meade Chief Judge of said Court, the 14<sup>th</sup> day of October 1852. Done the 24<sup>th</sup> day of March 1857.

Whereby said third Monday of April in the year last aforesaid the Sheriff aforesaid, made return of the said writ to the Court here, thus endorsed writ: "Summoned all, but William and him non est. John Darnard Shff."

And afterwards the Court passed the following order writ:

James McKensie or others }  
vs } In Allegany County Court as a Court  
John Jeffrey Margaret } of Equity.  
Jeffries and others.

Ordered this 7<sup>th</sup> day of May 1857 that G. B. M. Price be and he is hereby appointed commissioner to sign guardian to answer for the infant defendants in the above writ. L. Heintz.

Whereupon issued commission in form following writ: Maryland, Allegany County, Set:

The State of Maryland to George B. M. Price Esquire of Allegany County, State of Maryland, greeting: Whereas James McKensie, David Daniels and others have lately exhibited their bill of complaint as also their amendment of the same, before the judges of Allegany County Court, sitting as a Court of Equity, against Philip Knight, John Jeffrey and others defendants. And whereas we have by our writ lately commanded the said defendant to appear before us in our said Court at a certain day now past, to answer unto the said bill; but as much as the said David Knight, Caroline Knight, William Knight, Margaret Knight and Sydney Knight and infants in age and cannot answer the said bill nor defend this suit without having a guardian assigned in that behalf. Know ye therefore

seal



that we have given unto you, full power and authority in pursuance of the special order of said Court, to assign and appoint a guardian for the aforesaid infants and take the answer of the said infants, by such guardian to the said bill, and therefore we command you, that such certain day and place as you shall think fit, you go to the said infants, if they cannot conveniently come to you and assign and appoint a guardian for the aforesaid infants and take the answer of the said infants by such guardian to the said bill on such guardian's corporal oath, upon the Holy Evangelists of Almighty God to be administered by, the said answer being distinctly and plainly written and when you shall have taken such answer, you are to send the same closed up under your hand and seal, together with your certificate of your having assigned and appointed such guardian as aforesaid, and this writ, into us in our county court aforesaid.

Witness the Honorable Robert W. Martin, Chief Judge of our said Court the day of 21<sup>st</sup> April 1857. Issued May 12, 1857.

Henry Jones Clerk of Allegany County Court, Maryland,

And after reads writ on the twenty four the day of May in the year last aforesaid, the commissioner aforesaid made return of said commission to the Court, in the words following to wit:

To the Honorable, the Judges of Allegany County Court, sitting as a Court of Equity,

I, the undersigned, commissioner named in the annexed commission, issued from this Honorable Court, in a cause therein depending, between James McKenzie et al. complainants and Philip Knight and others defendant, do hereby certify, that by virtue and in pursuance of the said commission have assigned and appointed George W. McKenzie guardian for the said Sidney Knight and Margaret Knight, the infants therein named and have taken the joint answer of the said infants by their said guardian, upon his corporal oath to the bill of complaint, in the said commission mentioned, which answer with the said commission I herewith send enclosed. Given under my hand and seal this 28<sup>th</sup> day of May eighteen hundred and fifty one.

G. W. McKenzie seal  
Comms.

The joint answer of Sidney Knight and Margaret Knight, infants under the age of twenty one year, by George McKenzie, guardian to the Bill of Complaint of James McKenzie and others against Philip Knight and others, the said defendants saving and reserving to themselves all and all manner of exceptions to the said Bill of Complaint and to the matters therein contained; for answer thereto in so much thereof as they are advised is material and necessary to answer, answering by their said guardian say, that being infants they can say nothing about the matters and things mentioned in said bill of complaint, and submitting to such decree, as this Court shall deem equitable and proper to pass in the premises, they pray that their interest may be protected in such manner as shall be consistent.

with equity.

George McKensie, Guardian

State of Maryland, Allegany County, Set:

On this 24<sup>th</sup> day of May 1857, before me the subscriber, a justice of the peace within and for the county and district aforesaid, personally appears George McKensie, guardian of the infants named in the above going answer, and upon his oath by me to him administered pursuant to said commission, declares that the facts and matters stated in said answer, are true to the best of his knowledge and belief. Subscribed before

John White S. P.

G. B. M. Price, Commissioner

State of Maryland, Allegany County, Set:

On this 24<sup>th</sup> day of May in the year 1857 before me the undersigned a justice of the peace within and for the county and district aforesaid, personally appears George McKensie and makes oath according to law, that Daniel Knight, William Knight and the said James McKensie and others are complainants and Philip Smith and others defendants, have each arrived to the age of majority and are not now infants under age, to the best of his knowledge and belief. Subscribed before

John White S. P.

Whereupon the court here passed the following order to wit: James McKensie and others

vs  
John Jeffries, Margaret Jeffries and others

In Allegany County Court as a Court of Equity. No 134 chy.

Ordered this 7<sup>th</sup> day of May 1857

that George B. M. Price be and he is hereby appointed commissioner in the above cause, and that a commission is given to said G. B. M. Price to examine witnesses and to receive testimony upon interrogatories filed with him.

R. W. Martin.

Whereupon issued commission in form following to wit: Maryland, Allegany County, Set:

The State of Maryland, to George B. M. Price, Esqr. of Allegany County in the State of Maryland, Executive's

seal

Be it known that you are appointed commissioner to examine witnesses in a cause depending in Allegany County Court, as a Court of Equity, between James McKensie, David Daniels and others, complainants and Philip Smith, John Jeffries and others defendants: These parties are requested, having first taken the oath hereunto annexed also administered; the annexed oath to the person whom you shall appoint as clerk, to attend the execution of this commission that at such time and place as to you shall seem convenient, the cause to come before you, all such witnesses as shall be named or produced to you, by either the plaintiff or defendant and

that you examine them upon their oaths, to be by you administered on the Holy Evangelij of Almighty God, touching their knowledge or remembrance of any thing that may relate to the cause aforesaid, and that you cause notice to be given to the parties or their attorneys of the execution of this commission, before you execute the same; and having reduced the deposition of the witnesses aforesaid by you, into writing, you send the same with this commission, closed under your hand and seal to the said Court, with all convenient speed: Witness the Honorable Robert A. Martin, Esquire, Chief Judge of our said Court the twenty first day of April 1851. Shewed the first day of May 1851.

Henry Bruce, cler. Re.  
Allegany County Court Maryland.

The interrogatories filed in the above cause and sent out with the above commission, are in the words following to wit:

James McKensie et al.

Philip Knight et al.

In Allegany County Court sitting as a Court of Equity. No. 784.

Interrogatories to be proposed to witnesses to be produced on the part of the complainants.

Interrogatory 1<sup>st</sup> Are you or not acquainted with the parties to this suit or either of them and which of them. If you how long have you known them and each of them.

Interrogatory 2<sup>nd</sup> Do you or not know the land or farm described in the bill of complaint in the above cause. If you state whether the same is capable of a division among the heirs of said James McKensie Junr, which would be of benefit or advantage to the heirs.

Interrogatory 3<sup>rd</sup> Do you or not know whether it would be to the advantage of those entitled to said land to have the same sold and the proceeds divided among them respectively.

4<sup>th</sup> Do you know of any other matter or thing of benefit or advantage to the complainants. If you state the same as fully and as large as you may especially interrogated thereto.

And afterwards the commissioner aforesaid made return of the said Commission, to the Court, in the words following, to wit:

At the execution of the annexed commission issued out of Allegany County Court, sitting as a Court of Equity, and same directed and empowering me to examine evidences in the cause depending in the said Court, between James McKensie and other complainants and Philip Knight and other defendants by H. B. M. Price, commissioner therein named, having met on the 17<sup>th</sup> day of June at my office, and taken the oaths annexed to the said commission, proceeded to take the following deposition to wit:

Samuel C. Smith, of lawful age, produced on the part of the complainants, being duly sworn and examined to interrogatory

filed with the commissioners by the complainants and he returned deposes and says -

To the 1<sup>st</sup> Int. That he is acquainted with a number of the persons named in said bill of complaint, and has known them a long time.

To the 2<sup>nd</sup> That he does know the real estate mentioned and described in said cause, between James McKensie and others against Philip Knight and others. And that the same is not capable of a division among so many heirs.

To the 3<sup>rd</sup> That it would be to the advantage and benefit of the parties entitled to the same to have it sold and the proceeds distributed among them.

To the 4<sup>th</sup> That he knows nothing further.

There being no witnesses to be examined and no further time required for production of other evidence, I closed the said commission herewith returned the same under my hand and seal this 1<sup>st</sup> day of June 1857.

G. B. M. Price *(initials)*

Commissioners fee 25.00  
Witness 1.00

And afterwards was filed in court the following answer written by James McKensie & others

as  
Philip Knight & others } In Allegany County Court, sitting as a Court of Equity.

The first answer of Philip Knight, Caroline Knight and William Knight to the bill of Complaint filed in the above cause, or to such thereof as they are advised is material and necessary for them to answer, answer and say - That they have no reasons or objections to give or urge or say the said lands mentioned in said bill of Complaint should not be sold and the proceeds thereof distributed among those entitled to the same. And they admit the facts therein stated.

G. B. M. Price.

Sol for said defendants.

And afterwards on the eighth day of July in the year one thousand eight hundred and fifty one, the court here passed the following decree to wit:

James McKensie & others  
as  
Philip Knight } In Allegany County Court as a Court of Equity.

This cause standing ready for hearing and being submitted, the proceedings were read and considered. It is thereupon this 5<sup>th</sup> day of July 1857, by the Allegany County Court, as a Court of Equity, adjudged, ordered and decreed, that the real estate mentioned in the proceedings be sold for the purpose of partition between the parties; that Thomas Pugh 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 in the Office of the Clerk of Allegany County Court bond to the state of Maryland executed by himself with a surety or sureties to be approved by said Clerk in a penalty of one 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 premises, having first given at least three weeks previous notice inserted in some newspaper printed in Maryland 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 paid on the day of sale, and the balance in one and two years with interest from date, purchaser and purchaser giving bond with surety to be approved by the trustee. And as soon as may be convenient after any such sale or sales, the said 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 the ratification of such sale or sales by Allegany County as a Court of Equity, and the payment of the whole purchase money, and not before, the said Trustee by a good and sufficient deed, to be executed and acknowledged agreeably to law, shall convey to the purchaser or purchasers of said property and to his heirs or their heirs, the property to him, her or them sold free, clear and discharged of all claim of the parties to this cause and of any person or persons claiming by from or under them. That after deducting the costs of this suit and such commission to the said Trustee, as this Court think proper to allow, in consideration of the skill, attention and fidelity wherewith he shall appear to have discharged his trust.

C. W. Maitre.

And afterwards to wit on the third day of November eighteen hundred and ninety three, was filed in Court here the following announcement, notice and appointment, to wit:

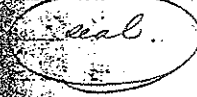
James Mc Dennis & others }  
 or } N: 734 Chy.  
 Philip Straight & others }

I hereby announce the fact that I was counsel for complainants in the above cause and therefore disqualified to sit therein.

Thomas Perry.

To the Honorable M. Nelson,  
 Sir under the above announcement, I am required to notify you of the fact therein stated, in or that a proper person may be by you appointed to try said cause.

In testimony whereof I here to set my hands and seal this 29<sup>th</sup> day of October 1853.



W. Feeley.

The above announcement and notice having been read and considered, I do hereby appoint George A. Travis of Allegany

County, to try the said cause between the above named parties this 1<sup>st</sup> day of November 1853.

W. Nelson.

And on the same day and year aforesaid was filed in Court here the following affidavit to wit:

James McHenry et al

vs  
Philip Knight et al

N<sup>o</sup> 734 Equity, In the Circuit Court  
for Allegany County.

J. George A. Pease

do hereby swear that I will try the cause between the above parties to the best of my ability, without partiality or prejudice.

Subscribed to in open Court

Just. G. Pease, etc.

And afterwards to wit on the first day of March in the year eighteen hundred and fifty four, was filed in Court here the following petition to wit:

James McHenry or third

vs  
Philip Knight and others

N<sup>o</sup> 734 chy.

To the Honorable the Judge  
of the Circuit Court for Allegany County, sitting as a Court of Equity.

The petition of J. B. Ford respectfully represents that it is reported as the purchaser of the land of James McHenry in 1844 on the Equity Decree of said Court, that since that time he has made arrangements with Louisa Keller to have her substituted as the purchaser thereof and has sold the same to her. And that your petitioner is anxious that a deed should be made to said Louisa Keller in his stead and place. And the said petitioner respectfully prays an order directing said deed to be made to said Louisa Keller in the place and stead of the said Ford.

D. Blochet

Atty for J. B. Ford

Whereupon the Court here passed the following order to wit:

The above petition having been read and considered, it is therefore this 1<sup>st</sup> day of March 1854 ordered, adjudged and decreed that the trustee in the case mentioned and described in the above petition be and he is hereby authorized and empowered to execute a deed to said Louisa Keller in the place and stead of said J. B. Ford. And that said trustee convey said land to said Louisa Keller with such estate as said Ford is entitled to and in as full a manner as he is entitled to the same.

George A. Pease.

And on the third day of March in the year last aforesaid was filed in Court here the following bond to wit:

(50 Cents) I do hereby allow by these presents that one Thomas Penn and George C. King of Allegany County and State of Maryland are held and firmly bound unto the State of Maryland in the full and just sum of one thousand dollars, current money to be paid to the said State of Maryland or its certain attorney, true payment well and truly be made and done, we bind ourselves and

each of us, our and each of our heirs, executors and administrators jointly and severally, jointly by these presents, sealed with our seals and dated this 9<sup>th</sup> day of July 1851. Whereas by a decree of Allegany County Court, as a Court of Equity, passed in a cause wherein McHenry and others are complainants and Straight and others are defendants being No. 784 on the Equity docket of said Court dated the 8<sup>th</sup> day of July in the year 1851, the above named Thomas Perry was appointed trustee of certain real estate in the proceedings in said cause mentioned. Now the condition of the above obligation is such that if the above bounden Thomas Perry, do and shall well and truly perform the trust reposed in him by said decree or that may be reposed in him by any future decree or order in the premises; then the above obligation to be void, otherwise to remain in full force and virtue in Law.

Signed, sealed and delivered in the presence of

Thomas Perry,   
Geo. L. Perry, 

Condensed "Filed March 3/52 approved M. Raley clk."

And on the same day and year aforesaid the Trustee filed in Court here his report in the words following to wit:

To the Honorable the Circuit Court for Allegany County, sitting as a Court of Equity.

The undersigned, Trustee appointed to sell the real estate described in the Equity case of McHenry and others against Straight and others being number 784 on the Equity Docket of said Court, respectfully reports and returns, that after having advertised for sale the real property herein after mentioned, in the Alleganian, a newspaper printed in the Town of Cumberland and having a general circulation, the same was sold to one John B. Steller at and for the sum of five hundred dollars, and after said sale, the said Steller desired that the undersigned should report Joseph B. Ford as the purchaser thereof in the place and instead of the said John B. Steller. The undersigned there fore reports said Joseph B. Ford as said purchaser. The undersigned reports that the land so sold is known as all that piece of parcel of land lying and being in Allegany County, called "The Western Road", containing one hundred and twenty seven acres, more or less and is described in a deed from David Shriver to Moses McHenry and dated the 13<sup>th</sup> day of September 1842, that part of said purchase money to wit the sum of one hundred and sixty six dollars and sixty six 2/3 cents, has been paid and the notes of said Ford have been given to the undersigned for the receipt. All of which is respectfully reported, so as to procure a ratification of said sale.

Thomas Perry.

State of Maryland, Allegany County, Court:

Do it remembered that on this 12<sup>th</sup> day of January 1854 personally appears Thomas Perry, who makes oath in due form of law that the facts, matters and things set forth in the foregoing report, are true.

as stated to the best of his information, recollection and belief  
shown before

Ursiah Duckworth of W. Justice  
the Peace in and for Allegany County & State of Maryland.

Whereupon the Court here passed the following order:

James McKersie & others

vs  
John Jeffries and others

In Allegany County Court as by  
of N<sup>o</sup> 734 chy

Ordered this 3<sup>d</sup> day of March 1852

that the sale made and reported by Thomas Biny Trustee  
the sale of the real estate of Moses McKersie and being the  
same land described in the Trustee's report in the above cause  
be ratified and confirmed, unless cause to the contrary shall  
be shown on or before the 10<sup>th</sup> day of April next: provided  
copy of this order be inserted in some newspaper printed  
Cumberland, once in each week before the said 10<sup>th</sup> day of April  
George A. Peane.

And afterwards was filed in Court here a certificate, to which  
annexed a printed copy of the last foregoing order; which  
said certificate is in the words following to wit:

I hereby certify  
that the annexed order was published in the Allegany  
paper once in each week between the 3<sup>d</sup> day of March and  
10<sup>th</sup> day of April 1852.

W<sup>m</sup> Weber.

Whereupon the Court here passed the following order to wit:

James McKersie

vs  
John Jeffries & others

In the Circuit Court for Allegany County  
sitting as a Court of Equity. N<sup>o</sup> 734 chy

Ordered by this Court this 12<sup>th</sup> day of

April 1852 by the Circuit Court for Allegany County sitting as  
Court of Equity, that the sale made and reported by Thomas Biny  
Trustee for the sale of the real estate described in the said Trustee's  
report, be and the same is hereby ratified and confirmed; no cause  
being shown, although notice has been given as required by the  
previous order of this Court.

George A. Peane.

And on the same day the auditor filed in Court here his report  
in the words following to wit:

McKersie & others

vs  
Bright & others

In the Circuit Court for Allegany County  
as a Court of Equity. N<sup>o</sup> 734 chy

In the Honorable the Judge of the Circuit  
Court for Allegany County as a Court of Equity.

The auditor reports that he has examined the papers in the  
above cause, and therefore has stated the within account between  
the real estate of Moses McKersie deceased, and Thomas Biny Trustee  
for the sale thereof: & herein after allowing the trustee his commissions  
and the costs of suit the net proceeds of sale are distributed among



then entitled thereto, in proportion to their respective interests as appears by the papers in the cause. Which is respectfully submitted.

Thomas Breckenridge, Auditor

The Real Estate of Moses McKenzie, deceased, in account with Thomas Perry Trustee.

To the Trustee his commission before death		\$ 29.70
" " State of Md 1/10 <sup>th</sup> of Trustee Commission		3.30
" " Moses Prince clerk	7.75	
" " Horace Coker do	21.90	
" " Solicitor & Counsel fee	55.00	
" " Sheriff's fee & Commissioners fee	13.00	
" " Surveyor & Chain carriers	19.00	
" " Comptrol's bills & cost of copy Papers	8.50	
" " Auditor's fee	4.66	130.41
Nett proceeds distributed as follows:		
To John Jeffries & Margant his wife	48.08	
" " Jane McKenzie	48.08	
" " Juliana Atkinson child of Sarah Johnson	48.08	
" " Ann wife of Miles Mann	24.04	
" " Jesse Lilly	24.04	
" " Sarah wife of John Whitefield	9.62	
" " Nelly wife of Nathaniel Lind	9.62	
" " Catherine wife of John Smith	9.62	
" " Henry Wade	9.62	
" " Rachael Wade	9.62	
" " Daniel Knight	9.61	
" " Caroline Knight	9.61	
" " William Knight	9.62	
" " Margant Knight	9.62	
" " Sidney Knight	9.62	
" " James McKenzie	4.81	
" " David Daniels & Rebecca wife	4.81	
" " George McKenzie	4.81	
" " Susanna wife of Spanish Wade	4.81	
" " Moses McKenzie	4.81	
" " Daniel Porter & Ann M. his wife	4.81	
" " John Lacta & Praximatis wife	4.81	
" " Cranshaw Morris & Ann his wife	4.81	
" " Enosh McKenzie	4.81	
" " Sarah Ann McKenzie	4.81	
		<u>336.59</u>

Children of  
Mancy Gray  
Children of  
Rachael Wade  
Children of  
John McKenzie

1851  
By amount of Sales by Trustee Report \$500.00

And afterwards the Court here passed the following order, to wit:  
Ordered this 10<sup>th</sup> day of April 1851 that the within report of the auditor be and the same is hereby ratified and confirmed and the trustee is directed to apply the proceeds of sale accordingly.  
George A. Pearce.