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and pray that the denial allegations in said Petition may be required to be substantiated by strictly legal proof. and having fully answered your Respondent pray to be dismissed etc.

A. H. Smith
Guardian ad litem

Petition of Frank Cowan et al

In Probate Court DeKalb County at June Term 1868
In the matter of the Estate of
A B. Cowan Dec'd

The Petition of Frank Cowan and his wife Sarah & of their children Martha Ann Robert Avon Simeon Amanda Cornelia Silas Joshua & Frankland - Andy Cowan and his wife Eliza and their children Zachariah Hannah James Martha Ann Jerry and William - Eliza Cowan and her children Richard & Mariah - Mary Cowan and her children Henry George Augustus & Sarah Jane Elen Cowan John Cowan Charles Cowan Charlotte Cowan and Rain Cowan respectfully represents unto your honor that they are the persons designated in the last will of Avon B. Cowan deceased as his sole devisees and legatees and are necessary parties to any steps towards

the administration of the said estate, and therefore they pray that they may by the order of this Hon Court be made parties defendant to the petition of J B Stamps Executor of said estate now on file and depending in said Court praying for a construction of said will and for order to sell the real estate of said estate, and that they have leave to file their answers thereto until the next term of this Hon Court to which term said cause be continued, and that they will ever pray &c

L V Dixon
Sol for petitioners

Filed 16 Jan 1868
A W Leach Clk

Probate Court
Jan Term 1868

In the matter of the Estate
of A B Cowan decd
In this cause Frank Cowan et al having
appeared in Court by Counsel and petitioned
to be made parties defendant to the petition of
J B Stamps for the Sale of Lands of A B Cowan
decd. It is thereupon ordered that said cause be
continued till next Court and that Frank Cowan
et al be allowed to answer said petition
for Sale of Land

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Prop Bill
Joint
Answer of
Frank Cowan
et al

To the Honorable the judge of the Probate Court of Desoto County State of Mississippi

The joint and several answer of Frank Cowan and Sarah Cowan his wife Mathew Cowan Cloe Cowan John Cowan Andy Cowan and Eliza Cowan his wife Charlotte Cowan Eliza Cowan Rosin Cowan Mary Cowan who are all adults and of Robert Cowan Aron Cowan Simeon Cowan Amanda Cowan Cornelia Cowan Silas Cowan Joshua Cowan and Franklin Cowan children of Frank and Sarah Cowan Zachariah Cowan Hannah Cowan James Cowan Martha Ann Cowan Jerry Cowan and William Cowan children of Andy & Eliza Cowan and Richard Cowan and Mariah Cowan children of Eliza Cowan Henry Cowan George Cowan Augustus Cowan and Sarah Jane Cowan children of Mary Cowan all of which children being minors under the age of twenty one years of age and who herein answer by their next friend Frank Cowan to the Petition of J. B. Stamps Executor of the last Will and testament of Abner B. Cowan decd filed in this Hon Court on the day of 1868.

And the said defendants by leave of Court for answer to said petition say that they admit the death of the said Abner B Cowan and that he departed this life about the day

of April 1864 at or near Olive Branch in the Eastern part of the County of DeSoto in the State of Mississippi, that prior to his death he the said Abner made and duly published his last will and testament a correct copy of which respondents herein is made exhibit to the said petition, they further show that the said last will and testament was on or about the 19th day of October 1864 duly probated and admitted to record in this Hon Court that in and by said Will the said testator appointed Barnett Graham and J. D. Williams of Memphis Tenn and the said J. B. Stamps his executors of his said Will, that subsequently and after the death of the said Cowan the said Stamps propounded the said Will to this Hon Court about the day of 18 for probate & record which was then for some reason unknown to your respondents refused and thereupon the said Stamps applied for letters of administration upon the estate of the said Cowan died as an intestacy which was granted to him and thereafter the said Stamps took charge of said estate and proceeded to administer the same until the said 19 October 1864 when your Respondents again by their attorney propounded the said last will & testament

for probate and record at which time the same was duly probated and admitted to record in this Hon Court and it then being made to appear by proof that the said Barnett Graham had departed this life and that the said J D Williams had in writing renounced his right and privilege to qualify as executor and thereupon he the said J B. Stamps alone qualified as the Executor of said Will in which said office and trust he has ever since remained, and Respondents would here beg leave to have reference to the said Will and the proceedings of this Hon Court thereabout as if the same were made an exhibit hereto, and respondents further show that in and by the said last Will which is dated 12th February 1850 the said testator declared that it was his will and desire that every of his negro Slaves male and female with their increase should be sent to Africa there to become and remain a free people, that at that date the said Slaves numbered Sixteen but in the same clause the testator declared that it was his intention to embrace all such negro Slaves as he might own at the time of his death, and your respondents show that they together with Charles Cowan, and

Ann Cowan a child of respondent Frank both of whom have died since the death of the said testator are and were the several persons named designated and appointed in and by the said will as the negro slaves male & female all of them the said testator and who by a subsequent clause in said will hereafter to be mentioned were to become his sole and only Legatees and distributes, Your Respondents further show that in and by the 4th clause of the said Will the said testator declared that he gave & bequeathed such residuary part of his estate as might remain after the payment of all his just debts and necessary expenses of administration to and for the use and benefit of your respondents to be equally divided among them after their removal out of this State and their manumission in foreign parts - by another clause in said will said testator directed his said executor to collect all that was due to his said estate and to sell all the property real and personal and after paying his debts and the expenses of the administration that the residue should be paid over to your respondents - and your respondents now show that in and by said will it was the manifest intention and prevailing desire

of the testator that your respondents who had faithfully served him during his life time as his slaves and who had contributed to his comfort ease and happiness should at his death become free from further bondage and be the recipients of his bounty and favour and that they should enjoy after his death the bounty thus bestowed upon them by his said will as soon as they were able so to do as free persons capable of inheriting the same - And your respondents further shew that in and by the proclamation of the President of the United States duly made on the 1st January 1863 all persons held as slaves within certain designated States then in rebellion should thenceforward be and become free persons - and that in said proclamation the State of Mississippi was designated as one of such said States then in rebellion that notwithstanding the said proclamation and their right thereby to be free, and the further fact that they were then within the lines of the United States army who were ordered to support and maintain the freedom of all slaves And your respondents adhearing to their ancient duty and love for the said testator who had ever been kind and considerate towards them they remained with him -

laboring for him and sustaining him in all his orders and directions as dutifully as at any time during their bondage and so continued until the period of the death of their said master in April 1864 and that they have remained upon the homestead plantation of said testator doing the best they could under the direction of the said Stamps and other friends of the said Cowan and to the present time. That on or about the day of 18 The Congress of the United States passed an act commonly known as the civil rights bill, when it was declared that all persons theretofore held to service and labor as slaves should be fully confirmed in their freedom, and should become citizens of the United States (if born therein, and your Rept. show that they and each of them are so born in the United States) and that they should be capable of buying selling holding leasing and inheriting property as other citizens of the United States might or could do,

They further show that in and by the constitution of the State of Mississippi by the people of said State in convention assembled in or about the month of August 1865—

it was declared as the organic law that Slavery having been destroyed in said State should not thereafter exist and requiring the Legislature of said State at its next Sitting thereafter to provide by law for the protection and security of the person and property of the freedmen of the State - and that by the act of the Legislature of said State of Mississippi of 25th November 1865 and that of 21st February 1867 in amendment thereof passed in pursuance of the said constitutional provisions you as respondents and other freedmen the same right to acquire receive hold and inherit real and personal estate as was enjoyed by other citizens of the said State,

They further show that in and by the said Proclamation of the President of the United States and the acts of Congress, the Constitution of the State of Mississippi and the laws thereof passed in pursuance thereto and by the force of other acts & laws of the United States and the State of Mississippi to which they pray leave to refer to these respondents were made citizens of the United States & of the State of Mississippi and entitled to all the lawful rights of such citizens to take hold inherit and hold any and all

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estate that was bequeathed to them and that they are advised that they have the right now as such freedmen and citizens of the State of Mississippi to inherit and take the estate so bequeathed to them by the said Testator A. H. Evans free from any and all conditions of departing from the State of Mississippi and residing in the said continent of Africa that this provision was not intended in the said will as a condition precedent to the taking of the said estate under said will but as a means of more surely carrying out the testators most humane intention of granting them their respondents their freedom and providing a competency for them, they show now that the intention of the testator may be fully carried out without this requirement which by the laws aforesaid has become unnecessary and perhaps they show and state that they do not desire the said lands and other property to be sold by the Executor beyond what is necessary to pay the just debts of the said testator & the expenses of the administration and that they have been informed and believe and charge the truth to be that the said Executor has now paid all the said debts and has a surplus of funds of said estate in his hands and that said

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Administration having been granted
to the said Stamps more than one year
since they are entitled to them as they are
advised, the said estate distributed to them
they being the sole and only legatees and
distributees thereof they state that it is
not their intent or desire that the same
should be sold either for the purpose dividing
among themselves or for any other purpose,
but that it is their desire and their intent
that the whole residue of said estate after
paying off all the debts should be distri-
=buted and delivered over to them as tenants
in common, Wherefore they pray the
premises considered that this answer may
be taken and considered as a Cross Bill
to the said petition of the said Executors
of B. Stamps, and that under the proper
process of this Hon Court he may be required
to answer the same, that his said petition
to sell the said estate may be disallowed
and dismissed upon final hearing, and
that your Honor will upon the confirm-
=ation of said last will and testament
the condition of said estate order and
direct the said Executors to make their
final account at a day to be fixed, and
that in the meantime order that the
lands mentioned in the said petition

shall be surrendered to your Respts
by him upon the execution of such bond
and with such penalties and conditions a
respond any and all sums as may be requi
to pay the just debts of said estate if any
remaining unpaid as your Honor shall
think fit and proper which they now hum
finder in manner and form as this Hon
Court shall direct if it shall be ascertained
by the answer of said Exr J B. Stamps that
there yet remain any debts due by said
estate and may it please your Honor to
require the said Executor to set forth what
other lands or any interest therein the said
A. B. Carran held at the time of his death
and what disposition thereof if any has been
made by him since that time setting forth
the same by particular description
And may it please your Honor to grant
them all proper process and orders and all
other and general relief which they may
show themselves equitably entitled to
L V Dixon Sol
for Respondents

The State of Tennessee }
City of Memphis } Be it remembered
that on this 17 day of July 1868 before me
R Dudley Frayser a Commissioner of the

State of Mississippi duly appointed and qualified as such under the laws of said State of Mississippi to take testimony to be used in the Courts of said State of Miss personally appeared Frank Cowan one of the Respondents named in the foregoing Answer and Cross Bill and being by me duly Sworn upon his oath says that the matters stated in said Answer and Cross Bill as of the knowledge of said Respondents is true and so far as the same is stated upon information deemed true and that he believes it to be true

Frank his + Cowan
mark

In Testimony whereof I have hereunto set my hand and affixed my official seal this 15th day of July 1868

Filed 21st July 1868
A.W. Smith Clk

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Probate Court
July Term 1868

Decree for Heirs at law to be made parties

J B Stamps Exr &c
vs
J C Barr et al

Bill and Cross Bill filed by the Legatees of A B Cowan,

On motion of the Sols for the heirs at law of A B Cowan deceased, It is ordered by the Court that the heirs at law of said Cowan dull be made parties defendant to said Cross Bill and have leave to file their answer to the same by the next term of this court,

Ordered adjudged and decreed the 21st day of July 1868

John A Hancock
Judge &c

Answer to Bill by N.R.A McCorkle et al

The Joint answer of N.R.A. McCorkle and McCorkle his wife Isaac F. Cowan and William F. Cowan Elizabeth Cowan Children and heirs at law of Susan Cowan deceased who was a sister of A B Cowan deceased, These Respondents protesting as to the device in said will and insisting that the said device is void, But said respondents admits that said land from

35 the Situation of the Same and the number of the heirs is incapable of division in Kind and they are willing for Said land to be Sold for division.
And now having fully answered &c
Moseley & Harris
Attys for Defts

The State of Mississippi
De Soto County

Probate Court
December Term 1868

Present and presiding the Hon Wm M. Johnston Judge of Said Court when the following order and Decrees were made and had Unit

Testimony of A. W. Smith a Witness

J B Stamps Ex.
vs
The heirs of A B Cowan

Testimony of Andrew Smith witness for the respondents being duly Sworn according to law States as follows. I was acquainted with A B. Cowan the testator he died the 20 of April 1864. At that time I was residing at Hernando. At that date the Confederate States Government was exercising Civil Jurisdiction throughout the County of DeSoto. I was acting either as Clerk or Deputy Clerk of the Probate Court at that Time. we held a Probate Court in Hernando the County Seat of this County on the third

Monday of March 1864 under the Confederate States Government, we had our usual officers of Sheriff Tax collector justices of the Peace under the Confederate States Government. There was no officers in the county who pretended to exercise the function of office or Government except those who held office under the Confederate States authority and the authority of the State of Mississippi up to that time, and until long after, there had been no change in the Government after the State of Mississippi passed the acts of Secession

Cross examination

There was no civil Federal jurisdiction in the County Sometimes the Federal Military would make raids through the county remaining a short time. I dont remember when the two contending Armies had their lines. The Federal authority had possession of Memphis and Germantown and the Railroad in Tennessee, and I understood that their line I mean the Federal lines was the Memphis and Charleston Railroad. I understood that parties had to get passes to pass north of said lines from the United States

military I mean north of Memphis and Charleston Railroad. If a party was north of said line or in Memphis or Germantown they had to get a pass from the Federal military to come South. The Records of Probate Court was scattered Some at T B Jones and Sam A Dockerys about Eight miles out. they was put there for preservation from the depredations of the Federal Soldiery. The Probate Court was also held at Hernando at the April Term 1864 and the Court was held regularly at the County Seat being Hernando until August 1864 The Records during this time I mean Final Records and the Records of Deeds Still remained at Jones A Dockerys all the records we needed was here I mean such as was necessary for the business of the Court was here. There was times when the Sheriff and Tax Collector was afraid to go to the neighborhood of Coldwater and they generally avoided going there owing to Federal raids at other times they could go with safety & used to go about that date in the neighborhood during the period I speak of the Confederate Soldiers was here frequently. Sometimes one would go out and the

other would be just behind them
comeing in. The negroes were owned
and continued as Slaves here during
that period Some would run away
and go into the Federal lines

A.H. Smith

Agreement of Counsel

J. B. Stamps Executor of
A B Cowan
Petition to Sell Land

In this cause
is admitted by both parties that the follo-
-ing State of facts are true Abner Cowan
the Testator died in April 25 1864 in
DeSoto County Miss Some 8 miles from
Germantown Tenn a point on the Memphis
and Charleston Railroad held at that
time and for a long time previously by
the Federal forces. That the Confederate
lines were at Old water River Some 1:
20 miles further South. That every day
two armed bodies of Cavalry Scouts co
out from Germantown as far as Cowans
residence Scouting that neighbourhood
and that this State of things continued
from a period many months previous
Cowans death till the final surrender of
the Confederate forces. It is also further
agreed that parties of Confederate Soldie