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#64

Petition in the matter of }
 the application of John Rogers }
 Guardian of the Property of Joseph }
 & McManus minor heir of Patrick }
 McManus deceased late of Madison }
 County Iowa for an order to sell }
 real estate }

Petition filed Nov 13th 1865 in
 County Court of Polk County Iowa
 Heard and granted Dec 4 1865

To the County Court of
 Polk County Iowa

Your Petitioner

John Rogers as guardian of the person and property of
 Joseph & McManus now a resident of Polk County Iowa
 Monorson Patrick McManus deceased late of the County
 of Madison and State of Iowa respectfully represents that by
 the last will and testament of the said Patrick McManus
 deceased as aforesaid the said minor Joseph McManus has
 become the owner subject to the right of the widows dower
 therein of the following described real estate to wit North West
 quarter of the South East quarter of section No two (2) and five
 acres out of the South West corner of the South East quarter of
 the South East quarter of section No two (10) all in Township
 No Seventy six (76) North of Range No Twenty six (26) West of the
 5th P M Pown a copy of which said last will and testament of the
 said Patrick McManus is hereto appended as exhibit No 1
 and made a part hereof Your petitioner further shows that by
 said will and testament as aforesaid the forty acre tract
 was not described as the North West quarter of the South East
 quarter &c but is described as a forty of land off of the
 North end of the farm of the said Patrick McManus on which
 the House stands was situated &c but that said description in
 said will describes the same land as described herein And your
 petitioner further shows that said minor Joseph & McManus
 is now aged about seventeen years and that said real estate as
 now situated is unproductive and the buildings and improve-
 ments situated thereon is going to waste and much in need of
 repairs and your petitioner further shows that said minor was
 left without money or property except as aforesaid and that it would
 as your petitioner believes promote the interest of said minor to have
 said property sold and the proceeds divided therefrom invested
 otherwise after using sufficient thereof for the education and sup-
 port of said minor your petitioner therefore asks that said prop-
 erty may be sold under the order of said Court public or private
 sale as the Court may direct

John Rogers Guardian

State of Iowa
Polk County

I John Rogers after first being duly sworn
on oath say that I am John Rogers named
in the foregoing petition and that the matters and things
therein contained are true as I verily believe John Rogers
subscribed and sworn to by John Rodgers before me this 13th day
of November A.D. 1865 J. Harny Phillips
Notary Public Polk Co Iowa

Patrick Mc Mannus late of } Exhibit No 1
Madison County Iowa deceased } Last will and testament

In the name of God Amen
I Patrick Mc Mannus of the Town of Crawford in the County
of Madison and State of Iowa of the age of sixty two years and
being of sound mind do make publish and declare this my
last will and testament in manner following that is to say

1st I give and bequeath to my wife Margaret Mc Mannus the
house and forty of land of the North end of my farm and five
acres of timber of the North West corner of of the South East quarter
of the South East quarter of section ten (10) Township Seventy six
(16) Range twenty six (26) with all the hereditaments and appurten-
ances thereto belonging to be used and enjoyed by her during the
term of her natural life and from and immediately after her
decease I give and devise the land to my son Joseph Mc
Mannus his heirs and assigns forever

2nd I devise to my two sons John and Cornelius Mc Mannus their
heirs and assigns forever the rest of real estate to be divided
equally between them and I hereby charge my last devise of
real estate with all my lawful debts together with fifty dollars
which I devise to each of my three daughters Ellen Jane and
Martha and Mc Mannus which several sums of money I direct
to be paid to said legates within two years after my decease
and my personal property I leave to my wife and my son
Joseph My team wagon and Harness for the use of the place
together with all my household and kitchen furniture also I leave
them the bellows and one bundle of hay one year old and all
my hogs and poultry with two hundred bushels of corn and forty
bushels of Wheat and all the potatoes now in the cellar and likewise
my saddle I leave them and I leave to my Daughter Jane a three
year old ^{run} heifer and to my daughter Martha Ann I leave my
my two year old black heifer and the spring colt And to Cor-
nelius the red heifer and the other spring colt and my the remain-
der of my store of grain and potatoes and all moneys due me

and the proceeds of the law suit now pending between
 McBoar McTigh and me on the Shripps Deed I leave to
 to my son John and Cornelius to be divided equally between
 them the two plows and Hay I leave on the place to my wife
 and Joseph the Rifle Gun I leave to Cornelius And lastly I do
 appoint my two sons John and Cornelius McManus to be
 the executors of this my last will and testament hereby revoking all
 former will by me made

In witness whereof I have hereunto set my hand this 8th
 day of November A.D. 1859 Patrick ^{Mc}McManus

State of Iowa }
 Madison County } SS

J. N. Garretson Judge of the County of
 Court of Madison County Iowa do hereby
 certify that the above and foregoing instrument is the last will
 and Testament of Patrick McManus late of the aforesaid
 County and State deceased as the same appears of record in
 my office Witness my hand and official seal this 11th day
 of November A.D. 1865 J. N. Garretson

Sigilli Locum

County Judge

The foregoing petition was filed in the Court of Polk
 County Iowa November 13th 1865 and the same was set for hearing
 at the December term of said Court to wit on the 4th day of
 December A.D. 1865 the same being the regular Court day for said
 month and it was ordered by the Court that a copy of this petition
 and a notice of the time and place of the hearing of the peti-
 tion be served personally on the heir Joseph H. McManus as
 provided by law J. H. McClellan

Notice

County Judge

To Joseph H. McManus Minor Son of Patrick McManus
 Deceased late of Madison County Iowa Sir you are with
 please take notice that John Rodgers your acting Guardian
 has filed a petition in the County Court of Polk County
 Iowa asking that said Court make an order for the sale of
 your property to wit the North West quarter of the South East
 quarter of section No two (2) and five acres out of the South West
 corner of the South East quarter of the South East quarter of section
 No ten (10) all in township No Seventy Six (76) North of Range No
 twenty six (26) West of the 5th P. M. Iowa being the property devised
 you by will of said Patrick McManus deceased for reasons
 stated in said petition a copy thereof is herewith furnishing you
 and you are hereby ^{also} notified that said County Court has set the
 same down for hearing and that said application will be heard

on the first Monday in December it being the 1st day of said month A.D. 1865 at which time you can appear there and defend if you see proper

John Rodgers Guardian

Phillips & Phillips his attys

The within notice and copy of petition came into my hands on the 13th day of November A.D. 1865 and was by me served on the within named Joseph H McManus at the shop of John Rodgers in the City of Des Moines Polk County Iowa by reading to him the notice and petition and offering to give to him a true copy of the same but he refused to receive the same

He Ma Bush Sheriff of Polk Co

by A Newton Dep

In the matter of the application of John Rodgers Guardian of the property of Joseph H McManus Minor heir of Patrick McManus decd, lots of Madison County Iowa for an order to sell real estate

Answer of Guardian ad litem in Co Court of Polk County Iowa Dec 14th 1865

Garnes Now

Stephen Sibley who was duly appointed Guardian ad litem for the purpose of this application and for answer to the petition of the said John Rodgers filed herein says that he admits the said heir is the owner of the land set forth in said petition but denies the propriety of or necessity of selling the same or any part thereof denies each and every allegation contained in said petition not herein admitted and asks the Court to protect the interest of the minor by calling for strict proof S Sibley Guardian

In the matter of the application of John Rodgers as Guardian of the property of Joseph H McManus for an order to sell real estate

ad litem

This cause was carried on to be heard on petition

Notice answer of the Guardian

ad litem and the testimony of John McManus and John Rodgers J H Phillips appeared as attorney for the application the said minor also appeared by Guardian ad litem and in person and the Court being satisfied that the notice had been legally served on said minor and all things having been fully heard and understood it was ordered and decreed by the Court that the said Guardian John Rodgers be and he is hereby authorized and empowered at public or private sale all the right title and interest of the said minor in and to the said real estate set out and described in said petition for cash in hand or on time as may seem best to the Guardian If sold at private sale the land should bring about the appraised value thereof and the Court appointed as appraisors J P Foster J Postewart and

A Newton } J. H. McClelland County Judge
 In the matter of the application of }
 of John Rodgers as Guardian of the } Petition filed Dec 4 1865
 person and property of Joseph & } in County Court of Polk
 McManus for an order to sell real estate } County Iowa

December 4th 1865

To J. P. Hoster and J. B. Stewart and A. Newton Gentlemen
 You are hereby notified that you were appointed by the same
 Court to appraise the following described real estate subject to
 the widows dower to wit N.W. of the S.E. 1/4 of section No. 22
 and five acres out of the South West corner of the S.E. 1/4 of the
 S.E. 1/4 of section No. 22 (10) all in Township Seventy six (76)
 North of Range (24) Twenty six West of the 5th P.M. Iowa

The papers do not describe whether the dower is a life estate or
 in fee simple this you may learn from J. W. Phillips Esq
 having received this you will appraise the interest of said heir
 at its full and fair cash value In witness whereof I have
 hereunto set my hand and the seal of said County this 4th
 day of December A.D. 1865

J. H. McClelland
 Co Judge

Eligible locus }
 State of Iowa Polk County } ss We the appraisers do state on
 oath that we will well and truly
 appraise the interest of said heir in the said real estate accor-
 ding to our best judgment

J. P. Hoster }
 J. B. Stewart } appraisers.
 A. Newton }

Subscribed and sworn to before me this 28th day of Dec A.D. 1865
 J. H. McClelland Co Judge

We the appraisers being duly qualified do appraise the said real
 estate named in the foregoing commission subject to the widows right of
 dower to be worth the sum of seven hundred dollars (\$700^{00/100})

J. P. Hoster }
 J. B. Stewart } Appraisers
 A. Newton }

The foregoing appraisement is approved by me
 J. H. McClelland Co Judge

In a matter of approving a deed of }
 conveyance executed by John Rodgers as } In the County Court of Polk
 Guardian of the property of Joseph & Mc } County Iowa
 Manus minor heir of Patrick McManus Deceneu }
 Deceneu }
 Comes now John Rodgers as Guardian of the property
 of Joseph & McManus minor heir of Patrick McManus Deceneu

March 28th A.D. 1866

which deed is in the words following to wit

Know all men by these presents that I John Rodgers of Polk County Iowa as Guardian of the property of Joseph & M^cMannus of said Polk County Iowa minor heir of Patrick M^cMannus Decedent by virtue of an order of the County Court of Polk County Iowa made at the December term of said Court A.D. 1845 and in consideration of the sum of Eight hundred dollars in hand paid by Timothy Horn of Madison County Iowa granted bargain and sold and by these presents do grant bargain sell and convey unto the said Timothy Horn all the right title and interest of said heir in and to the following described real estate to wit the North West quarter of the South East quarter of Section No two (2) and five acres out of the South West corner of the South East quarter of the South East quarter of Section No ten (10) all in Township No twenty six (26) North of Range No Twenty Six (26) West of the 5th P.M. Iowa to have and to hold the same unto the said Timothy Horn and his heirs and assigns forever as fully as it is competent for me as guardian aforesaid by the authority aforesaid to convey the title of said minor thereto

In Testimony whereof I the said John Rodgers as guardian aforesaid have hereunto set my hand this 31st day of Jan 1844

Recd \$100
John Rodgers Guardian
of Joseph & M^cMannus

State of Iowa }
Polk County } On this 23rd day of January 1844 before me W^cB Bently Co Judge in and for said County personally came John Rodgers Guardian as aforesaid to me personally known to be the identical person whose name is affixed to the foregoing deed of conveyance as grantor and acknowledge the execution of the same to be his voluntary act and deed as such guardian for the purpose therein stated

In Witness whereof I have hereunto set my hand & affixed my official seal the day & date last above written

W.C.B.
W.C. Bently County Judge
State of Iowa } The foregoing deed of conveyance executed
Polk County } by John Rodgers Guardian as stated therein
to Timothy Horn being by the said guardian this day returned
into Court for approval and it appearing to the Court that the said
guardian has complied with all the requirements of the law and
of this Court in making such sale and conveyance it is therefore ordered
that the said sale and the above conveyance be and the same are
hereby expressly approved In witness whereof I have hereunto set my hand and affixed
my official seal this 28th day of May A.D. 1844 W.C. Bently County Judge.

State of Iowa
Polk County

Office of the County Judge April 10th 1864
I W. G. Bently County Judge of said County
and presiding Magistrate of the County Court and cus-
todian of the books and papers belonging to said County
Court do hereby certify that I have carefully compared the annexed
copies of Order of sale of real estate appraisement Deed and
approval with the original records and files of this office and
that the same are correct transcripts therefrom and the whole of
such original records and papers

In Testimony Whereof I have hereunto set my hand and
affixed the seal of the County Court this 10 day of April in
the year of our Lord one thousand eight hundred and sixty four

W. G. Bently

Noted at 5 o'clock
W. G. Bently

W. G. Bently County Judge
of Polk Co Iowa

Filed for record the 3rd day of May A.D. 1864 at 3 O'clock P.M.

Oct. Moser Recorder

By Jas. Shephard Deputy