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which the said Complainants have permitted to pass without making any claim for a portion of said profits the said Complainants are debarred from such claim of rent as to the whole term yet certain as had the time previous to three years before the filing of the said Bill of Complaint an remain And your Respondent prays that he may be hence dismissed with his costs And he will ever pray &c

W. D. Davidson for Respondent

And at the same day to wit the 24 day of September 1857 comes and files their Replication to wit, In the Hardy Circuit Court for Harrison County The Replication of Joshua B. Pim and Rebecca J. Pim his wife Respectfully show That said Complainants deny that the said defendant purchased 210 acres of the tract of land called Cumberland as he hath alleged or that he between Christopher Gray W. Gray and wife and Ruth E. Shipley had the perfect right to convey the entire fee simple interest in the said land to him and they aver and charge that in the allegations and intermediate said defendant assists little to show further reference is made to the last Will and testament of Rebecca H. Elder of Pattenson County as the of his title and thereby the undivided undivided interest of the said testatrix was devised to the wife of said Gray and to the said Ruth E. Shipley but denies the said Will giving upon pretense of a right to the entire fee simple interest in the said 210 acres of land but simply refer to it as an undivided interest And the said Complainants are advised that said defendant without a reference before him had written and was put upon inquiry (of in fact there was any doubt) as to the extent of the interest which he really purchased and that he ought to show that the parties of whom he professes to have purchased had a right to sell and convey as he hath alleged or indeed had any interest whatever, And the said Complainants further aver that the alleged purchase was made of at a time when the said

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Original cause of suit pending and that the said defendant since only acquired the undivided interest of the said Charles Elder and Sally Elder the deceased defendants in said original cause as is alleged in said Bill of Revivor, All the said Complainants further aver and insist that they are not debarred from having an accounting the rents and profits of said defendant in proportion to their interest in and to said property during the time he had been in receipt thereof by reason of any lapse of time because of the fiduciary relation existing between them and said defendant they being tenants in common and mutual trustees, and they insist further that in as much as the answer of said defendant was not filed by the succeeding Jan answering the plea of limitations ought not to avail,

A. H. Hobbs Complts Solr

And afterwards to wit on the 6th day of Oct in the year 1858 Joshua B. Pim and Rebecca his wife by their Attorney A. H. Hobbs filed Charles Hancock resignation as Trustee of the was and then filling to wit Parkersburg Nov 4th 1856

Dear Sir. In reply to your inquiry I have respectfully to say that Mr Gill and myself made repeated efforts as trustees in the case of the admr. of D. Henry Harvey deceased vs Charles Elder and others to effect a sale of the property mentioned in the proceedings but we were entirely unsuccessful until you mentioned the subject to me I was under the impression that we had long since been discharged by the Chancellor from the further execution of the trust As this seems not to have been done I will be much obliged if you can have me released and procure the substitution of some other Trustee in my stead,

Respectfully yours Chas Hancock

About the same time was filed an agreement in the following words to wit

Pim and wife vs John Redyey } In Circuit Court for Harrison County Filing in Equity