No. 6582. Equity.

The Bill in this case is filed to procure a decree for the sale of certain real Estate in the Town of Emmitsburg in said County.

The Bill states

1. That John Peter Kummell late of Frederick County, deceased, was in his lifetime and at the time of his death seized and possessed of certain real Estate situated in the Town of Emmitsburg in said County which said real Estate is described in a deed from Dietrich Geist to the said John Peter Kummell, under the name of Peter Kummell, a certified Copy of which deed is filed with the Bill as part thereof marked Exhibit A.

2. That the said John Peter Kummell died in the year 1889, leaving a last will and testament, duly probated and of record in the office of the Register of wills of said County, in which among others devises and bequests is the following, "I devise and bequeath all the remainder of my Estate after the death of my wife, Mary D. Kummell not required for her funeral Expenses and my and her debts and for grave stones to be divided Equally share and share alike to my three Children, Ann Topper, Mary Bishop and John M. Kummell" a certified Copy of which last will and testament is filed with the Bill as part thereof marked Exhibit B.

3. That the said John Peter Kummell left surviving him the three Children mentioned in said last will and testament

(a) The plaintiff, Mary A. Bishop, a daughter whose husband is the plaintiff, John W. Bishop, both of whom are of full age and reside in Adams County in the State of Pennsylvania.

(b) The defendant, Annie C. Topper a daughter, whose husband is the defendant Edward J. Topper, both of whom are of full age and reside in Adams County in the State of Pennsylvania.

(c) The defendant, John M. Kummell, a son whose wife is the defendant Helen R. Kummell both of whom are of full age and reside in Baltimore City.

4. That Mary D. Kummell, the widow of the said John Peter Kummell, is dead and that according to the provisions of said last will and testament of the said John Peter Kummell the said real Estate is now owned by his said three Children as tenants in common, and although the same is to be Equally divided among his three Children the said last will and testament contains no power of sale.

5. That recently the said John M. Kummell and Helen R. Kummell, his wife, John W. Bishop and Mary A. Bishop his wife, and Edward J. Topper and Annie C. Topper, his wife, attempted to confer upon the defendant, Henry Stokes, of Frederick County, power to sell and convey said real Estate by a power of attorney which the plaintiffs are informed and believe is ineffectual for said purpose as to some of said parties by reason of its being defectively acknowledged.

6. That said real Estate is not susceptible of partition or division among the said parties entitled thereto and cannot be divided without loss and injury to the parties interested therein and that it is necessary and to the interest and advantage of all the parties Entitled thereto that the same be sold and the proceeds thereof divided among them according to their