

That being so seized as aforesaid, the said Mary Smith - some time in the month of Sept. A.D. 1842. died Intestate - That said Ezra Smith, the husband and of said Mary Smith decd. is also dead. He having died shortly after the death of his said wife. That William E. Smith, Hiram E. Smith, Henrietta R. Smith, and John S. Smith, all of Frederick County, are the heirs at law of said Mary Smith decd. and that said Hiram E. Henrietta R. and Thomas J. are Infants, under the age of twenty one years. William E. is over twenty one years of age. And your orator charges that the said William E. Smith, on the 27th day of November A.D. 1855. by Indenture duly executed & Recorded, a copy of which Indenture properly authenticated is herewith filed, numbered exhibit No. 2. did for the Consideration set forth in said Indenture - bargain & sell, alien and Convey to your orator, all the rights, Title, Interest, and Estate of him the said William E. Smith of in and to the Real Estate aforesaid - and that your orator as such - alienee of said William E. Smith is entitled to all the rights of said William E. Smith and to have the relief of your Honorable Court, in the premises, as fully as the said William E. Smith might but for his alienation aforesaid - have.

And your orator further Shows, and declares - That the said Real Estate is not susceptible of partition amongst the parties aforesaid, and that it will be greatly to the Interest & advantage of all the parties, as well as your orator, That the said Real Estate be sold, and the proceeds divided amongst the parties entitled and that your orator as assignee of said William E. Smith hereby expressly waives all and every right of partition, and election given by the act of assembly of the year 1820. ch. 191. But now so it is That your orator is remediless, except by the interposition of your Honorable Court. To the end therefore - That the said Hiram E. Smith, Henrietta R. Smith, and John S. Smith, may answer the premises, and that a Decree may be passed for the sale of said Real Estate, under the direction of this Honorable Court, and the distribution of the proceeds amongst the parties entitled, according to their several interests - and that your orator may have such other and further relief as his case may require. May it please your Honor to grant unto your orator, the writ of Subpoena, against the said Hiram E. Smith, Henrietta R. Smith, and John S. Smith, Commanding them to appear in this Court, at some certain day, to be therein named, to answer the premises & abide by and perform such Decree as may be passed therein. & as in duty bound he

Geo. K. Shillman.

Soll for. Comp.

Exhibit No. 1 is in the words & figures following Viz.

In the name of God, amen. I, John Myers of Frederick County, in the State of Maryland, being weak in body, but of sound, and disposing mind memory and understanding, considering the Certainty of death, and the uncertainty of the time thereof, and being desirous to settle my worldly affairs and thereby be the better prepared to leave this world, when it shall please God to call me home, do therefore make and publish this my last will and Testament, in manner, and form following, that is to say, First & principally I Commit my soul, into the hands of almighty God, and my body to the earth to be decently buried, at the discretion of my executors - herein after named, and after my debts & funeral charges are paid I devise and bequeath as follows. I give & devise to my dear sister Charlotte Dinchly for & during the Term of two years after my decease, all the following two pieces, or parcels of Land, and premises, situate in the County aforesaid, that is to say, all that part of a Tract of Land called "Shivers stat." being part of "Taskers Chance" which was out, or about the 20th day of January - 1821 -