as his heirs at law cannot be divided without loss or injury to the parties interested therein and that it will be to the interest & advantage of all parties interested therein that the same should be sold under the order & decree of this Court, and a division made of the money arising from such sale among the parties according to their respective rights. — To the End therefore that the said defendants hereafter named may answer the several matters and things herein before stated, and that a decree may be passed for a partition of the aforesaid real Estate among the parties concerned, or in case a partition thereof cannot be effected without loss or injury to the parties interested, then that the same may be sold under the direction of this Court and a division of the money arising from such sale among the parties according to their respective rights may be made under the order of this Court, and that your Complainants may have, all such other & further relief in the premises as the nature and Equity of their case may require. — May it please your Honor to grant to your Complainants an order of publication giving notice to the said John McDuel & Eliza McDuel his wife, Ann Selinda Smallwood, George C. Kennedy & Elizabeth Susan Kennedy his wife, William Hay and Jarah Jeanette Hay his wife, John L. McDuel and McDuel his wife whose Christian name is unknown to your Complainants, Michael Carley and Jane Carley his wife, who are non residents as before stated of the substance and object of this Bill and warning them to take and appear in this Court in person or by Solicitor on or before a certain day to answer the premises and show cause if any they have why a decree ought not to pass as prayed — and your Complainants will ever pray &c. —

Wm. J. Roy Sol. for Complainants

Exhibit No. 1.

At the request of Henry McDuel the following deed is recorded the 3d day of September 1838. —

This Indenture made this 23d day of June in the year 1838 by & between Daniel S. Biser of Frederick County & State of Maryland of the one part & Henry McDuel of the County & State aforesaid of the other part. Whereas by a decree of Frederick County Court sitting as a Court of Equity made and passed No 1436 Equity & bearing date the second day of July 1835, the above named Dan'l S. Biser was appointed a Trustee & among other real estate by said decree directed to be sold was authorized and empowered to sell & dispose of all the right, title estate & interest of Daniel Biser dec'd of in and to all the real estate purchased by him in his lifetime from a certain Solomon Fink Trustee as the real estate of Philip Fink before that time deceased, and whereas also the said decree did authorize & empower the said Solomon Fink Trustee to execute a joint deed to the purchaser or purchasers purchasing the said property as aforesaid decreed to be sold by Daniel S. Biser Trustee, upon the receipt of the whole purchase money or so much thereof as remained unpaid by Daniel Biser in his lifetime, and whereas the said Daniel S. Biser Trustee as aforesaid did on the 25th day of February in the year 1836 sell at public auction to Henry McDuel certain real Estate hereinafter more particularly mentioned which the said Daniel Biser in his lifetime purchased from Solomon Fink Trustee for the sale of the real estate of Philip Fink dec'd containing 161 acres and 17 prs. of land at and for the grop sum in the aggregate of Eight thousand nine hundred & fifty four dollars and twenty eight cents which said sale was reported to & finally ratified by the Court on the 16th day of May 1836, and whereas the whole purchase money for said real estate hath been fully paid & satisfied — and whereas the said Henry McDuel by his petition filed in said Court hath represented that Solomon Fink the Trustee for the sale of the real estate of Philip Fink hath removed out of the State of Maryland & that it would be difficult if not impracticable that a joint deed as required by said decree could be executed & hath also stated that from the proceedings in No 1272 Equity under & by virtue of which the said Solomon Fink acted as Trustee and sold real estate therein mentioned to said Daniel Biser now deceased it does not appear that Solomon Fink is authorized to execute a deed to any other person — and hath prayed the Court to pass a decree to authorize Daniel S. Biser Trustee to execute a separate deed conveying the equitable interests of Complainants and defendants in No 1436, which said decree was passed on the 7th day of June 1838 as by reference to said decree and all proceedings in No 1436 Equity will