

No 10511 Equity.

12th. That said real estate is not susceptible of partition or division without material loss and injury to the parties entitled to interests therein as before stated, and that in order to make division of said interests it will be necessary that said real estate be sold and the proceeds thereof divided amongst the parties according to their several interests.

13th. To the end therefore,

- (1) That decree may be passed for the sale of said real estate,
- (2) That the proceeds of the sale of said real estate may be distributed amongst the Plaintiffs and Defendants according to their respective rights and interests.
- (3) That your Orators may have such other and further relief as their case may require.

May it please your Honors to grant unto your orators the writ of Subpoena directed to the said Virginia S. Hickman and George S. Hickman, her husband, adults, residing in Baltimore City in the State of Maryland commanding them to be and appear in this Court on some certain day to be named therein, and answer the premises and abide by and perform such decree as may be passed therein,

And also an Order of Publication giving notice to the said Clarence W. Swomley and Annie Swomley, his wife non-residents of the State of Maryland residing in the State of Missouri, and to Clinton W. Smith of the State of Missouri and Raymond E. Smith and Corinne E. Smith his wife, of the State of Ohio adults, non-residents of the State of Maryland, commanding them and each of them to be and appear in person or by Solicitor, in this Court on or before a certain day to be named therein, to show cause, if any they have, why a decree ought not to be passed as prayed.

And as in duty bound, &c.

Clayton O. Keedy
Solicitor for Plaintiffs.

(Filed March 13, 1922)

CERTIFIED COPY OF WILL.

"EXHIBIT NO. 1"

I, Elisha Swomley, of Frederick County in the State of Maryland, being of sound and disposing mind, memory and understanding, do make this my last will and testament, hereby revoking all other wills, and testaments, heretofore made by me, in manner and form following:-

- 1.- I give and bequeath unto my daughter Sarah Matilda Smith the sum of Two Thousand dollars.
- 2.- I give and bequeath unto my daughter Ida Virginia Kickman, the sum of Two Thousand dollars.
- 3.- I give and bequeath unto my son Clarence W. Swomley the sum of Two Thousand dollars.
- 4.- After all my just debts and funeral expenses are paid, I give, devise and bequeath all the real and residue of my estate, real, personal and mixed, equally to my three other children, namely, Edgar Nelson Swomley, Ella Jane Swomley and Elisha Chalmers Swomley and require of said three last named children that they give my widow Margaret Swomley, a home and comfortable support and maintenance in sickness and in health during her natural life and suitable burial after her death, which provisions in reference to my widow I hereby make a charge upon the devise and bequest made to them.
- 5.- And further it is my will that in case any person or persons to whom any legacy or devise, or to whom any benefit from or by reason of my said will shall come, shall commence any suit or proceedings or file any caveat against this my will, then my will is that all and every legacy, devise or benefit accruing to any such person hereunder shall cease and become void; and such devise, legacy or benefit, I give to the other of my legatees and devisees herein named, equally, share and share alike.
- 6;- And lastly I do appoint my sons, Edgar Nelson Swomley and Elisha Chalmers Swomley and my daughter Ella Jane Swomley Executors and Executrix of this my last will and testament without bond.