

[Fielder B. Smith, late of Calvert county, being possessed of valuable real estate in said county, departed this life in the year 1845, leaving a widow, Lucy M. Smith, (the present defendant,) and several children and the representatives of other children, his heirs at law; five of them being children of the defendant, and the other descendants of the deceased by a former marriage. By proceedings under a commission for partition, issued out of Calvert County Court, the lands of the deceased were divided into eight parts, and assigned to the parties entitled; a third part of each division having been assigned to the defendant, for her dower. One of these eight parts was allotted to Sarah Ellen Childs, sole representative of Sarah A. Smith, daughter of the deceased by his first marriage; said Sarah Ellen, together with her husband, J. D. Childs, being the present complainants. The widow possessed herself of the several parcels so assigned to her, and commenced cutting from that assigned her out of the land of the complainants, nearly all her fire-wood, and fencing for other portions of her land; removing a large portion of fencing from the land on which she resided, and replacing it with new rails cut from her dower on the complainants' land. The complainants filed their bill for an injunction to restrain her from the commission of further waste on said land, charging her with the intention to benefit her own children, to the injury of the reversionary interests of her step-children; insisting that she must use each parcel of land assigned her, separately, and denying her right to cut more wood from each than was required for the use of the same. The defendant, by her answer, denied the intention charged, and asserted her right to use all the portions assigned her as one entire dower. She averred, that the part assigned to her out of the share of the complainants, consisted almost entirely of wood, and was assigned to her to use in the manner charged, and was only useful to her for that purpose. She also objected to the jurisdiction of the court, first, because the complainants had an adequate remedy at law, in an action on the case; and, secondly, because their remedy, if they had any in equity, should have been sought on