of Wills for Baltimore County) a copy of which when produced in this cause by your oratrix is prayed to be taken as part of this amended bill) whereby your oratrix became entitled to charge the estate and property bequeathed and devised to said James D. Mitchell by said Francis I. Mitchell with the payment of said sum of five thousand dollars and said original bill then charges that a large and valuable estate real personal and mixed had been bequeathed and devised by said Francis to said James D. Mitchell who afterwards died in the year 1837 seised and possessed of said estate bequeathed and devised to him as aforesaid, but the situation description and amount of which is unknown to your oratrix. And your oratrix further sheweth that in and by her said original bill it is also set forth and alledged that the said James D. Mitchell in his life time executed his last will and testament duly proved and recorded in the orphans Court of Charles County upon the 23d of August 1837 (a copy of which when produced by your oratrix in this cause she prays may be taken as part of this amended bill) by which he appointed the said Elizabeth A. Mitchell his executrix (who afterwards took out letters testamentary on his personal estate) and thereby bequeathed to your oratrix an annuity of five hundred dollars payable in semi annual payments and charged the whole of his real estate with the payment of said annuity and the said original bill recites that default had been made in the payment of said annuity and prays that the said executrix may answer on oath and disclose the property and estate bequeathed and devised by Francis I. Mitchell to said James D. Mitchell for his own use and benefit as well as the property and estate of said James D. Mitchell charged with the payment of said annuity and that so much of the said estate bequeathed and devised by Francis I. Mitchell as aforesaid and so much of the real estate of James D. Mitchell whereof he died seized be sold as will be necessary to satisfy the charges thereon respectively in favour of your oratrix. And your oratrix sheweth unto your Honor that since the filing of her original bill she is advised to make Henry Mitchell her brother (who now resides in Queen Anne County Maryland) a defendant in said suit in as much as he is one of the right heirs at law of both the said Francis I. deceased and of James D. Mitchell decd (your oratrix and her said brother being now the sole heirs at law of both said Francis I. and said James D.) And your oratrix further sheweth that in and by the last will and testament of said James D. Mitchell duly executed to pass real estate, he the said James D. Mitchell devised the whole of his real estate to the said Elizabeth A. Mitchell his widow for her life and upon the decease of the said Elizabeth he devised his farm called "Myrtle Grove" to the eldest male heir of the body of the said Henry Mitchell the brother of the testator if he should live to attain the age of twenty one years or leave lawful issue and your oratrix states that as she is informed and believes the said Henry Mitchell now has a male child in full life but an infant of tender years who is named Joseph H. Mitchell and who is the eldest

male heir of the body of said Henry and your oratrix charges that the said estate called "Myrtle Grove" was part of the estate bequeathed and delivered by Francis I. Mitchell as aforesaid to James D. Mitchell and is chargeable with the payment of said sum of five thousand dollars as aforesaid as well as with the amount of said annuity aforesaid and that there is other property and estate also chargeable but which is unknown to your oratrix. And your oratrix charges that the said eldest male child of said Henry Mitchell now living has a vested estate in said farm called "Myrtle Grove" and as being entitled to the first estate of inheritance in said farm he is liable to be charged to the extent of his interest therein with the payments to your oratrix as aforesaid. But if your Honor should think that the said eldest male child of said Henry is not entitled to a vested estate in said farm called "Myrtle Grove" then your oratrix charges that by the said will of said James D. Mitchell the fee simple interest in "Myrtle Grove" is vested in your oratrix and her brother Henry as the right heirs of said James D. Mitchell. In tender consideration of all which premises and to the end that the said sum of $5000 may be raised if not otherwise paid by a sale of the real estate of which James D. Mitchell died seized and which was chargeable therewith as aforesaid and particularly by a sale of "Myrtle Grove" your oratrix prays that the said Henry Mitchell and his said infant son named Joseph H. Mitchell may be made defendants hereto and answer the matters herein alledged and that process of subpoena may issue directed &c commanding &c and as in duty bound your oratrix will ever pray.

William D. Brent, Solicitor for Complainant.

And thereupon a writ of subpoena was accordingly issued against the said defendants Henry Mitchell and Joseph H. Mitchell returnable to the next Term of the said Court, at which next Term to wit March Term 1840 the sheriff of Queen Annes County made return of the said subpoena thus endorsed "N. E." And afterwards at the same Term a writ of subpoena was renewed against the said defendants returnable to the next Term of the said Court at which next Term to wit, July Term 1840 the sheriff of Queen Annes County made return of the said subpoena thus endorsed "summ." And afterwards that is to say at July Term 1840 came William Schley Esquire of counsel for the said defendants Henry Mitchell and Joseph H. Mitchell and in their behalf appeared to the said suit. And afterwards at the same Term came the complainant aforesaid by her solicitor aforesaid and entered a general replication to the answer filed in the said cause, and at the same time the parties aforesaid by their solicitors aforesaid filed in the said cause the following agreement.

Sarah E. Mitchell vs Elizabeth Mitchell and others. } In Chancery. We agree that a commission shall be issued in this case to Outerbridge Horsey Junr. Esq. of the City of Baltimore to examine witnesses on either side.

Wm. Schley for Defts. Brent & Brent, for Complainant.