said complainant has brought a suit at law for said sum of five thousand dollars in Charles County Court, and which was pending against the said Elizabeth A Mitchell, as executrix of said James D Mitchell, at her death, and which, this respondent is informed is intended to be continued against him as administrator de bonis non with the will annexed, and he prays that said complainant may be made to elect either to abandon said suit at law or else to dismiss this bill of complaint. And this respondent further answering, states that the assets which have come to his hands, as administrator de bonis non with the will annexed of the said James D Mitchell are not nearly sufficient to pay the debts of said James D Mitchell if the claim of said complainant is just and true, and other claims which have been notified to this respondent are also just and true. And this respondent relies upon all the matters and suggestions aforesaid and prays that he may have the same benefit thereof, as if the same had been taken by any other form of pleading. Without that there is any other matter or thing necessary or material for this respondent to make answer unto, and not herein and hereby well and sufficiently answered unto, confessed or avoided traversed, or denied is true. All which matters and things this respondent is ready to aver, maintain and prove as this Honorable Court may direct. And he prays to be hence dismissed with his reasonable costs in this behalf most wrongfully sustained.

William Sehley, Solicitor for respondent.

State of Maryland, Chas. County to wit. On this 20th day of April in the year eighteen hundred and forty two, before the subscriber a Justice of the peace of the State of Maryland in and for the said County personally appeared the said Henry S Mitchell and makes oath on the Holy Evangely of almighty God that the matters and things in the foregoing answer stated are true to the best of his knowledge and belief

Sworn before. F. Nelson.

State of Maryland Charles County to wit, I hereby certify that Frederick Nelson gentleman before whom the above affidavit was made and whose name is thereto subscribed was at the time of so doing and still is one of the State of Maryland's Justices of the peace in and for the County aforesaid duly commissioned and sworn and that to all acts by him done in that capacity full faith and credit are due and ought to be given as well in Courts of Justice as thereout.

In testimony whereof I have hereunto subscribed my name and affixed the seal of Charles County Court this twenty first day of April in the year of our Lord one thousand eight hundred and forty two.

(Seal)

John Barnes, Clk. of Chas. County Court.

And afterwards to wit, on the 13th day of May 1842 came the complainant by her solicitors aforesaid and entered a General Replication to the answer of the said defendants. and on the day and year last aforesaid came the parties aforesaid by their solicitors aforesaid and filed in the said cause the following agreement,

Sarah E Mitchell vs. Henry S Mitchell and others. } High Court of Chancery. In the above entitled cause the Register of the High Court of Chancery will issue a second commission to Outerbridge Horsey of Baltimore as commissioner to take evidence in said cause by consent of parties.

May 12th 1842.

Robert J Brent, Solr. for Complainant
Wm Sehley, for Defts.

And thereupon a commission was accordingly issued to Outerbridge Horsey Esquire of the City of Baltimore in pursuance of the said agreement to take testimony in the said cause. And afterwards to wit on the 6th day of December 1842 the commissioner aforesaid made return of his said commission with his proceedings under the same in the words following to wit.

Maryland Sc. The State of Maryland to Outerbridge Horsey of Baltimore County Greeting, Know, That we have appointed you to be our Commissioner to examine witnesses in a cause depending in our High Court of Chancery, between Sarah E Mitchell complainant and Henry S Mitchell and others defendants. We therefore require you having first taken the oath hereunto annexed, and also administered the annexed oath to the person whom you shall appoint as clerk to attend the execution of this commission that at such time and place as to you shall seem convenient you cause to come before you all such witnesses as shall be named and produced to you by either the plaintiff or defendants and that you examine them on their corporal oaths, to be by you administered upon the Holy Evangely of almighty God, touching their knowledge or remembrance of any thing that may relate to the cause aforesaid, and that you cause notice to be given to the parties or their attornies of the execution of this commission, before you execute the same, and having reduced the depositions of the witnesses so taken by you, into writing you send the same with this our Commission close under your hand and seal, to us in our High Court of Chancery with all convenient speed. Witness the Honorable, Theodorick Bland Esq. Chancellor this 13th day of May Anno Domini 1842.

(Seal) Test. Louis Gassaway, Reg. Cur. Can.

Commissioner's Oath. You shall according to the best of your skill and knowledge, truly faithfully and without partiality to any or either of the parties take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission hereto annexed, upon the interrogatories now or which may hereafter, before the said commission is closed be produced to and left with you by either of the said parties. So help you God. Sworn before. P. Lawrenson, J.P.

Clerks Oath. You shall truly faithfully and without partiality to any or either of the parties in this cause take write down and transcribe the depositions of all and every the witness and witnesses produced before and examined by the commissioners named in the Commission hereunto annexed as far forth as you are directed and