claimed, due to the said complainant.

5th. Because the complainant is not entitled to maintain an independant suit in respect of said personal property for the relief for which the complainant asks in respect thereof.

Wm. Schley, for Deft.

And afterwards that is to say on the day and year last aforesaid came the parties aforesaid by their solicitors aforesaid and filed in the said cause by consent an amendment to the original and amended bills in the words following to wit:

Sarah E. Mitchell, vs. Henry S. Mitchell &c. } Petition for amendment. The above complainant refers to the original bill of complaint and her amended bill heretofore filed and prays an amendment of said original and amended bills in the following particulars viz: first to strike out all matter relating to the annuity or legacy granted to the complainant by the will of James D. Mitchell.

2d. To aver that James D. Mitchell left no children at his death and left no brothers or sisters surviving him except the complainant a sister of the whole blood and the deft. Henry S. Mitchell a brother of the half blood.

Robt. J. Brent, for Compltt.
Wm. Schley, for Deft.

And afterwards that is to say on the day and year last aforesaid there was filed in the said cause a copy of the will of James Davidson Mitchell which is in the words following to wit.

I, James Davidson Mitchell of Charles County and State of Maryland do make and publish this my last will and testament in manner and form following that is to say I give and bequeath to my beloved wife Elizabeth Ann Mitchell forever all my plate household and kitchen furniture being upon my two farms hereinafter named to be disposed of in such manner as to her may seem proper.

I give and bequeath to my dear sister Sarah Elizabeth Mitchell an annuity of five hundred dollars to be payable and paid to her by my executrix hereinafter named in even and equal semi annual instalments of two hundred and fifty dollars each for and during the whole term of the natural life of my sister accounting from the time of my decease, and I charge the whole of my real estate with the payment of the said annuity in manner aforesaid.

I give and devise to my aforesaid wife Elizabeth Ann Mitchell my farm and real estate situated in Charles County called "Myrtle Grove containing eighteen hundred acres or thereabouts be the same more or less, and likewise my farm in Kent County and State aforesaid known by the name of "Hunting Field" containing four hundred and sixty acres more or less, and all the slaves at "Myrtle Grove and the live stock farming and plantation utensils and implements of husbandry on said farms respectively being and also my lot of land situated on the south side of the Basin in the City of Baltimore and on what is generally called and known by by the name of Federal Hill containing as it is supposed nearly two acres, and generally all the rest residue and remainder of my estate

real personal and mixed, not hereinbefore disposed of wherever situate or being inclusive of my Library books of accounts and all moneys belonging due owing or payable to me, and all evidences and vouchers relating thereto; I hold said farms lot of land and real estate, and all said slaves live stock chattels effects moneys and claims unto my said wife for and during the term of her natural life, without impeachment of waste, so that neither my said wife nor her representatives shall be answerable for deterioration or involuntary loss. It is nevertheless my will and desire in case the debts owing to me and which may be collected should fall short of an amount sufficient to discharge the just claims against me that my said wife sell and dispose of in her best discretion so much of my personal property other than that given and bequeathed to her in perpetuity as may be necessary to make up that deficiency but if the moneys on hand at the time of my death and those owing to me, and which may be collected should exceed the amount of the just claims against me then I give the surplus or difference to my said wife to be applied to her own use. Moreover I authorize and empower my said wife if she shall think proper so to do, to sell such of my slaves as may not be necessary for cultivating and carrying on the "Myrtle Grove" Farm and for domestic purposes thereon (and) and in the event of such sale to apply the proceeds to her own use or to dispose thereof as to her may seem fit. After the decease of my said wife I give and devise my aforesaid farm called "Myrtle Grove," and the slaves that may remain undisposed of inclusive of the future issue and increase of the females and also the farming and plantation utensils and implements of husbandry and live stock that may be then remaining on that farm unto the eldest male heir of the body of my brother Henry S. Mitchell and the heirs and assigns of such male heir forever, if he shall live to attain the age of twenty one years or leave lawful issue and in case of the decease of such eldest male heir of the body of my said brother in his minority and without leaving lawful issue then to the next eldest male heir of the body of my said brother and the heirs and assigns of such next eldest forever if he shall live to attain the aforesaid age of twenty one years or leave lawful issue and so on in succession to the third fourth and other male heir his heirs and assigns, if any such male heir there shall be that may live to attain the aforesaid age of twenty one years, and for want of such male heir of my said brother then the same estate shall descend to and devolve upon the the right heirs of me the said James Davidson Mitchell in fee simple and as to my aforesaid farm called "Hunting Field" and the live stock farming utensils and implements of husbandry thereon and also my aforesaid lot of land in the City of Baltimore, I give and devise the same after the decease of (my) my wife to such one or more of the children of my aforesaid brother Henry S. Mitchell as my dear wife by her last will and testament or by any instrument of writing in the nature of or purporting to be a last