take such testimony as either complainants or defendants may offer in regard to the rents and profits since the death of the said Samuel Stallings and to state an account of said rents and profits for the further action of this Court and to report to this Court the testimony on which he states said account

And to the end that this Court may be enabled to make such partition, it is further adjudged, ordered and decreed that a commission in the usual form issue to George Slicer, John Ruby, John Wilson, Samuel L. Wagner and John Hartley of Allegany County, authorizing them or any four or three of them to enter upon, walk over and survey the said real estate and value the same and to divide the same into six equal parts having regard to quantity and quality, if in their opinion the said real estate be susceptible of such division with advantage to all the parties concerned therein and to allot one of such divisions to the complainant and one to each of the defendants except that to the said John H. House, Maza House, David House Jr. Evaline House and Charles House, children of the said Polly House, they shall allot one of such divisions as the share of their said mother Polly House, and if in their opinion the said real estate be not susceptible of such division with advantage to all the parties interested therein, then that they proceed to divide the same into such less number of parts as they may deem most to the advantage of all parties interested therein and to ascertain the value of each part thereof having regard as aforesaid to quantity and quality. And if in their opinion the said real estate will not admit of division without loss or injury to the parties then that they make return of their said judgment and the reasons upon which the same was formed, with the real value of said estate; and that the said Commissioners make out or cause to be made out a plot and certificate, of said real estate and of the divisions thereof, with the beginning and courses and an accurate description of the said estate and of the several parts of the value of said parts. And to the said Commission shall there shall be annexed the usual oath of office

James Smith

And afterwards, to wit, on the thirteenth day of February in the year eighteen hundred and sixty two, were filed in the cause here the following withdrawal and the order of Court passed thereon, in the words following, to wit:

Ezekiel Stallings vs. John T. Stallings & others — In the Circuit Court for Allegany County. Sitting in Equity. No 526 ch. James Smith Esq. Special Judge.

Whereas by the decree in this case filed on the 20th day of August 1860. the question of my right to the land which was placed in my possession by my late father, Samuel Stallings in his lifetime, was reserved and not decided by said decree, but the balance of the lands were decreed to be divided by commissioners named in said decree. Now therefore I the said Ezekiel Stallings, do hereby withdraw my individual claim to the whole of said land and I do hereby



agree that a further order or decree shall be passed subjecting the said land to partition amongst all the heirs of the said Samuel Stallings and that the commissioners in said decree named shall thus make partition of the whole estate including that part reserved as in said decree stated, and I now pray the Court to pass a decree to the above effect

Test
Thomas J. McKeag
Atty for E. Stallings

Ezekiel his + mark Stallings

Ezekiel Stallings vs. John T. Stallings & others — In the Circuit Court for Allegany County, sitting as a Court of Equity. No 526. Jas. Smith Esq. Special Judge.

A decree in part having been passed in this case on the 20th day of August 1860, in which the right of Ezekiel Stallings to the land mentioned in the proceedings as having been placed in the possession of the said Ezekiel Stallings by Samuel Stallings in his lifetime, was reserved from the operation of said decree. It is now this 13th day of February 1862, by this Court and the authority thereof, ordered, adjudged and decreed upon the petition and disclaimer of the said Ezekiel Stallings herewith filed and by and with his consent, that the said land reserved as aforesaid in said decree from the operation of the said decree, be and the same is hereby decreed to be part and parcel of the real estate of the said Samuel Stallings, deceased. and that the said commissioners in said decree named, to whom no commission has yet been issued, make partition of this land, excepted from the operation of the former decree, as part and parcel of the lands of the said Samuel Stallings in connection with the balance of the said real estate as though the said exception had not been made and the question reserved in the former decree and that in all other respects the said Commissioners proceed as in said decree of the 20th of August 1860 they are directed. And the Clerk of this Court is hereby directed to issue commission to the said commissioners authorizing and empowering them to make partition of the real estate of the said Samuel Stallings as directed in the decree of the 20th of August 1860 as modified and ascertained by this decree; thus making partition of the whole real estate of Samuel Stallings now settled by this decree.

James Smith

And thereupon issued commission, as directed by the foregoing decree, in the words following, to wit.

Maryland, Allegany County, Sc.

{Seal} The State of Maryland to George Slicer, John Ruby, John Wilson, Samuel L. Wagoner and John Hartley