addition to the testimony stated in the preceding bills of exceptions which is to be considered as part of this bill of exception as fully as if the same was herein again fully set forth offered in evidence by Benjamin Wiley a competent witness that the witness knows the track of land called The Brothers and lived on it in 1782. In 1782 the land called The Brothers was all in woods James Clarke lived in Baltimore and claimed title to the land as his own and agreed to lease a part of it to the witness who went on the said land in the summer of 1782 under that agreement and cleared about an acre and fenced it at the place shewn the Sheriff and surveyor which is at green S on the plat and built a cabin near the lines of Walnut bottom but after seeing the lines renewed and finding the lines of Walnut bottom then held by George Mason took in part of the land he expected to lease he refused to take the lease and left the land and went to Baltimore after having remained on the land eight or ten months. Witness lived in Baltimore from 1783 at which time he left the Brothers until 1787 when witness again returned with his family he lived in Virginia about two and a half miles from Cumberland. In 1782 the witness understood from James Clarke and Charles Clinton that the latter was agent for Clarke and had the care of the Brothers as agent of Clark at that time Clinton lived on Walnut bottom where the town of Cumberland now stands and it was Clinton who pointed out to him the land he was to lease from said Clarke as before stated and part of which was found on survey to be in Walnut bottom. In 1785 witness went to Cumberland on some business Clinton was then gone. he does not know who then had the care of the Brothers and thinks nobody was living on it Clinton left Cumberland in 1783. In 1788 or 1789 David Watkins cleared a field on the brothers and held the same some years claiming under Thomas Beale the lessor of the plaintiff the said field begins at big green T four or five years after the said field was cleared the fence was taken away and the field left as common and remains so still since some time between 1790 and 1795 to this time Beale and those claiming under him have been in the actual possession and occupation of different parts of that part of the Brothers lying to the east of Mills creek by cutting timber and clearing when it suited him and leasing out and selling parts of the said tract to different persons Beale claiming at the same time title to the whole tract as having been purchased by him from Faw except where he Beale had sold out parts of it witness knows nothing as to the possession on the west side of Mills Creek. Between 1795 and 1800 James McCoy cleared a field beginning at green V he cleared under Beale. on the cross examination by Defendant witness stated that about twelve years ago Witness saw some of the lines of the Brothers run one of the lines run into the field of Col° Lamar. Col° Lamar never claimed or held any of his land under the title of the Brothers to the knowledge of the witness the land was then running by

order of the Court on some dispute in Court.

The plaintiff offered in evidence by Michael Fisher a competent witness that he went to live in Cumberland in 1792 and has known the land called The Brothers from that time altho he did not know by what name it was called until 1793 when witness first knew the land Beale was in the practice of exercising acts of general ownership over that part of the land on the east side of Mills Creek by cutting timber on it and permitting others to cut timber in different places cultivating some of it and renting other parts out and claiming title to the whole tract. The witness does not know the lines of the Brothers on the west side of Mills creek located on the plat and does not know who possessed that part except the town of Cumberland which was laid out by Beale The fields beginning at green T. U & V were then in possession of Beale claiming the same as his own part of the Meadows was inclosed and improved by Beale and has since been inclosed by him. The fields green T U V after four or five years were turned out as a common the witness was in the habit of cutting hoop poles occasionally for twelve or thirteen years from 1793 by the permission of Beale along and near the line described on the plat from green U to green M part of the field beginning at green S was cleared about the year 1793 by Beale who continued to clear from year to year for three four or five years enlarging the field to its present size some time during those years a fence was made round the clearing. That Beale continued to hold and possess the said field until he sold it to James Scott who now holds it under the purchase from Beale.

The plaintiff further offered in evidence by Dickenson Simpkins a competent witness that he has known the land called The Brothers for about fifty years witness went to live in that neighbourhood about 1771 and has lived in that neighbourhood ever since. about twenty six or twenty seven years ago Beale laid off an addition to Cumberland on the tract of land called The Brothers on the east side of Mills creek and sold out the lots to different persons, Beale at the same time claiming title to the whole tract as purchased from Abraham Faw except where he had sold out parts of it. Ever since the time above mentioned that is from 26 or 27 years ago Beale has been in the habit of exercising acts of general ownership over the land called The Brothers on the East side of Mills Creek by cutting timber on it in different places selling renting and improving different parts and claiming title to the whole tract. The witness does not know the lines of the Brothers on the west side of Mills creek and does not know of any acts of ownership by Beale on the west side. The witness does not know whether or not Clarke or Faw was ever in possession of The Brothers it was in woods when the witness first knew it and very little improvement was made on it until Beale got it

The plaintiff further offered in evidence by William McMahon a competent witness that in the year 1799. The Brothers stood assessed to Abraham Faw. Beale paid the taxes on it. witness was collector of the taxes from 1799 until 1804 and until that time Beale paid the taxes. He does not know