December Term 1840.

in said field leading to said bars for horses or a team, but that he has frequently seen said Hanna and his son use the road in said field leading to the bars farthest distant from said barn with horses and carriages, and that said last mentioned road in said field, was the road commonly used by the said Hanna, and others across said field except when on foot, persons sometime passed over the road and through the bars first mentioned. Sworn before John Carsins sheriff.

Evan Evans.

Mr. Josias Bailey Junr. sworn deposeth and saith the field upon the west side of the road leading from the Cross Roads to Priests Ford, was the property of the late James Herbert as he has always understood and believes. Sworn before John Carsins sheriff.

Josias Bailey Junr.

Mary Ann Smith
vs
John Hannah and others.

Action of Trespass in Harford County Court, June 10th 1837. In execution of the survey in the above case personally appeared Francis Herbert, witness for the plaintiff in the above case aged forty six being duly sworn deposeth and sayeth, that he lived on the premises when a boy of about nine years old was employed by his father to harrow the field he now points out, and that there never was any road across said field at that time, and to his knowledge there never was any road across said field till Mr. Hanna came to the farm which he now owns deponent further says that there never was a gate to his knowledge at the place pointed out. That deponent brother John when in possession of the premises had a permanent fence put around said field and deponent heard his brother John forbid William Middleditch and George Herbert who lived on the premises now occupied by Mr. Hanna from crossing said field, and that he deponent once when taking a load of oats, inquired of Mr. Hanna how he would get in, was informed by Mr. Hannah he had better ask permission of Mrs. Smith that she had deprived him from crossing and perhaps he had better ask which he deponent did ask and was refused permission to cross said field, that she did not want any one to cross said field, but was allowed to pass by going on to the next hollow in said field by putting up the fence. Sworn before me John Carsins sheriff.

Francis Herbert.

At the same time came William Ewing aged fifty one, and being duly sworn deposeth and saith in 1808, he farmed the field he now points out for John Herbert in 1809 had part of it in oats deponent in 1808 assisted in building and repairing the fence along the road, and part of the line fence round said field during the three years which he was engaged in farming for Mr. Herbert he Mr. Herbert would not permit Mr. Middleditch to pass through said field and does not recollect of ever seeing a gate stand at the place pointed out, and to the best of his deponents knowledge he never saw a cart or waggon, pass through said field during the time he was on said premises. Sworn before me John Carsins, sheriff.

William Ewing.

At the same time came Mary Evans and being duly sworn deposeth and saith that about twenty four years ago she moved to the neighbourhood of Herbert's Cross Roads that the field she now points out was cultivated by them during the eight years they lived on the premises that is, she cultivated during the first year and pastured it afterwards. That deponent never saw any team or carriage going in or out or passing through said field during the eight years which she lived on said premises. that she frequently heard Mrs. Herbert tell Mrs. Hannah that she would not allow him to have any road through said field but allowed said Hannah to pass a road which comes out in the road leading to Bel Air, and that she never saw or recollects any gate at this place. Sworn before me John Carsins sheriff.

Mary her mark Evans.

At the same time comes William Ewing and being sworn deposeth and saith, the way he now points out is the road which Capt. John Herbert allowed Mr. Gibb, Mr. Middleditch and George Herbert to pass through said premises

December Term 1840.

to the great road, and never saw any cart waggon carriage or team pass in or out any other way than the way he now points out.

William Ewing.

At the same time came Francis Herbert and being sworn deposeth and saith the way he now points out is the way which Capt. Herbert allowed Mr. Middleditch and his brother George Herbert to pass through to the great road and did not allow any person to pass through the field on the west side of the road to Priests Ford on Deer Creek except through a piece of woods at the far end of said field, and deponent farther saith he heard James B. Herbert about one year before he died say he would not let John Hannah pass through said field that the bars were frequently left down and could get no good of said field. Sworn before me John Carsins sheriff.

Francis Herbert.

On the same day came Mary Evans and being sworn deposeth and sayeth she heard Capt. Herbert frequently say he had given John Hannah liberty of passing this way now pointed out, but never would allow him any other way across his premises, and deponent further saith she has frequently seen Mr. Hannah and family passing in and out of said way. Sworn before me John Carsins sheriff.

Mary her mark Evans.

Mary Ann Smith
vs
John Hannah and others.

Action of Trespass in Harford County Court June 10th 1837. In execution of the survey in the above case personally appeared on the premises Ann Deaver aged forty seven years witness for the defendant in the above case, being duly sworn deposeth and saith, when about fourteen or fifteen years of age, that her grandfather John Gibb used the private way which she now points out until his death, as a way to the great road leading to Priests Ford on Deer Creek and she deponent continued the use of it until the years 1812 or 1813 at which time she left the farm where John Hannah now owns and deponent believes John Hannah has used said road as a way out from his farm since that time until prevented by Mary Ann Smith, deponent further saith there was a gate put up at the place she now points out in her grandfathers life time and was standing here when deponent left said property. Sworn before John Carsins, sheriff.

Ann her mark Deaver.

At the same time appeared Roland Rogers aged sixty two years and being duly sworn deposeth and sayth that in or about the year of 1813 deponent and his wife paying a visit to John Hannah and family passed over the way he now points out and there was an old gate standing at the place he now points out, deponent sayeth the way was then a beaten & used way and knoweth to his knowledge that John Hannah has always continued the use of said way until prevented by Mrs. Smith.

Roland Rogers.

At the same time appeared Arthur Manahan aged forty five years and being duly sworn deposeth and sayeth the place he now points out is where the Stack yard fence stood at the time of the alledged trespass. Sworn before me John Carsins sheriff.

And now here at the same time Samuel Bradford and John M'Kenney Gentlemen Commissioners appointed by Harford County Court to take testimony in civil causes, returned to the Court here the following testimony taken before them to wit.

Mary Ann Smith
vs
John Hannah and others.

In Harford County Court. on this 17th day of March 1837 before us, two Commissioners appointed by Harford County Court to take testimony and duly qualified for that purpose appears Elijah Wall on a witness produced on part of the plaintiff in the above case and being first duly sworn deposeth and saith, that he understood from both James B. Herbert and John Hanna that he the said Hanna had rented from the said Herbert the Tavern at Herbert's Cross roads now occupied by Carvel