tract of land called "Out Quarter", laid down on the plotts in this cause and that the road from F. to G. laid down on the plotts was used as a road to and from the great road at E. to the defendants farm at G. and that before the seizen of the said John Hanna commenced which was in or about the year 1832, the said farm was in the seizen and occupation of one John Tibb, and his devisees at that the bars at the points D. and E. on the plotts through which the defendants are charged with passing were frequently down that after harvest in the spring and fall of every year the publick were in the habit of passing through said bars at D. and E. and that said bars were in sight of plaintiffs house. They further proved by the said Benjamin Wakeland that, some time in the fall of 1831, he wedged and fastened up part of said bars at F. and that they were thrown down but he does not by whom and that he Wakeland told plaintiff that if she did not make the defendants quit going through her field he would leave the place, and plaintiff told him she could not stop defendants; and on cross examination said Wakeland said that his conduct in fastening the bars and making the complaint aforesaid proceeded from a disagreement between Hanna the defendant and himself and without the orders of the plaintiff. The plaintiff further to support the issue on her part proved by one Elijah Walton that he was present when the said Wakeland told plaintiff that she must stop the Hanna's from going through her field, and that plaintiff replied to said Wakeland that she was a woman she could not stop them. And further proved that in December 1831 she intermarried with one Henry Smith, and that the said Henry Smith departed this life on the second day of May 1832 and further proved by said Ro. Walton that the said John Hanna in January 1832 informed him that he Hanna would leave the Tavern House and premises he occupied on the 6th of March 1832 the year of the tenancy terminating at that, that they might rent to whom they pleased and that the said Smith and the plaintiff upon being so informed of his intention to leave rented the said Tavern House and premises to one James Knight who resided near Baltimore, and that the said Knight removed his goods and effects as far as the town of Bush with a view to take possession of said Tavern House that when he came to Bush the said Hanna at an interview he had with him refused to let him enter, and informed him that he would not leave the premises that year and that said John Hanna did refuse to leave said Tavern House and premises until the 6th March 1833.

Whereupon the plaintiff prayed the Court to give the Jury the following instructions. First. That the right of said defendant John Hanna to use said barn as proven by Jacob Tillett was only a license to use the same and that the same was revoked by the death of James B. Herbert.

Second. That the right claimed by defendant John Hanna to use said barn was an interest therein that could not pass by parol contract and that unless the defendants could shew a deed or written contract conferring the right to use said barn claimed that then no such right passed and that the defendants if they entered said barn after being warned by plaintiff not to do so were trespassers.

Third. That if the Jury believe the said John Hanna had agreed to leave said Tavern House and premises in March 1832, and had with his knowledge and consent permitted the plaintiff and her then husband to rent the same to James Knight and that said John Hanna afterwards refused to quit, but held the said premises till March 1833 against the consent and wishes of the said plaintiff and shall believe that plaintiff gave notice to defendants that they must not enter her barn or carry their buckwheat thither and that defendant in defiance of the wishes

of said plaintiff entered her barn and put their buckwheat therein during the time said John Hanna so held the said Tavern House and premises against the consent of plaintiff and should further believe that the whole of said defendants came the next morning and unlocked said barn with a false key in defiance of the plaintiff and against her remonstrances and directions to the contrary. And shall further believe that the defendants refused to permit the plaintiff to remove the buckwheat they had so placed in her barn, that then the defendants are guilty of a trespass altho' the Jury may believe that said John Hanna by oral contract with James B. Herbert had a right to use said barn when he Herbert was not using the same and may also believe that said oral contract for using the barn was a part of the contract between said Herbert and Hanna for leasing the said Tavern House and the premises thereto appurtenant, and shall also believe that plaintiff did receive afterwards from said John Hanna $125 for rent for the year ending the 6th of March 1833.

Fourth. The plaintiff further prays the Court to instruct the Jury that the mere use of the way from G. to F. by John Hanna, and those under whom he claims the land called "Good Neighbourhood" for twenty years before the bringing of this suit was not of itself without some evidence of adversary user other than the mere use sufficient evidence from which the Jury would presume a grant of said right of way from the owner of the close thro' which said way passes to the said John Hanna or those under whom he claims which direction the Court refused, but directed the Jury that they might from evidence of the mere use find an adversary use and if they found an adversary use of said way for twenty years before the bringing of said suit that then they were bound to find a grant for said right of way to said John Hanna or those under whom he claims.

Fifth. The plaintiff prays the Court to instruct the Jury that if they shall believe the defendants entered the field of plaintiff at any time during the period which elapsed between the death of Henry Smith the husband of the plaintiff and the institution of this suit, then the plaintiff is entitled to recover altho' the defendants may shew that they made repeated entries into said field of said plaintiff during her coverture with Smith and afterwards, which said several prayers the Court refused to grant whereupon the plaintiff by her counsel prays leave to except and also to the opinion of the Court above expressed and that the Court would sign and seal this her bill of exceptions which is accordingly done this ——— day of August 1837.

Stevenson Archer (Seal)
John Purviance (Seal)

Memorandum. Judgment was rendered in this cause on the seventeenth day of August in the year of our Lord one thousand eight hundred and thirty seven.

Test, Henry Dorsey, Clk.

And whereas, on the fifth day of September in the year of our Lord one thousand eight hundred and thirty seven the said Mary Ann Smith by Otho Scott her attorney applied to the clerk of the Harford County Court and directed that an appeal be entered from the Judgement aforesaid to the next high Court of Appeals for the western shore of the State of Maryland which was accordingly done and at the same time produced and filed in the clerks office of Harford County Court aforesaid an appeal bond entered into by the said Mary Ann Smith with surety which was approved of by Henry Dorsey clerk of said Court which said bond is of the tenor and in the words following to wit.

"Know all men by these presents that we Mary Ann Smith and "Thomas C. Stump are held and firmly bound unto John Hanna "Robert Hanna Alexander Hanna and William Hanna in the just and