vests in him an estate therein in fee. Considering that it would be of serious moment to the community to cast a shade (of) doubt on this Doctrine, at this late period, the Court of Appeals must decide that such an election by the husband in right of his Wife, to take the lands of her Ancestor according to their value as ascertained by the Commissioners, followed by his passing bonds to the other heirs for the payment of their just proportions of the value thereof in money, agreeably to the Act of Assembly on this subject, vests in him an estate in fee, in the whole land elected to be taken, and does not pass any interest whatever therein to his Wife. The further question to be enquired into is, whether the legal title to the land elected to be taken, vests in the husband by the election, or only an equitable interest, to become a legal estate on the payment of the purchase money and a Deed from the Commissioners — We hold that every election under the Act of Descents to take the whole Estate of the Ancestor at a valuation, and to pay the other Heirs their just proportions of the value in money, and pass bonds for the same settles in the person electing the legal Estate in fee in the lands elected by him to be taken, and in this respect we cannot perceive any difference between an election by a Child of the intestate, & an election by a husband in right of his Wife, who was a Child of the intestate. In either case the electing party takes with his own free consent, and by his own Act as a Purchaser and does not as was suggested derive his title by Descent from the Ancestor; And in both cases the whole proceedings from the petition to the election, become alike, a matter of Record, which to future times may test their legal correctness — An Election by the Child or Heir of the Intestate has always been thought to pass the legal estate in fee, for it was not until the year 1820 that the Legislature empowered the Commissioners to convey to him. As to a husband electing in right of his Wife, it is true the Commissioners were authorised to convey to him the land elected to be taken, at an earlier period — (The Act of 1802 Ch. 94. section 6. was enacted for this purpose, but it is to be observed that this Act has in this respect only a retrospective operation and from that time until the year 1820 the Commissioners acting under the Descent laws had no power to make any such conveyance to a husband.

The Court then must entertain the opinion, that the election of John Stevens in right of his first Wife to take the lands in question, vested in him, under the circumstances in which it was made, the legal estate in fee, in the lands & mills mentioned in the plaintiffs Declaration, and that she is entitled to Dower in the same — The judgment must be reversed and a procedendo awarded.

Attest: James Pamotte Clk

James, John, Mary and Peregrine Price their Lessee — vs — Caroline M. Blanch, James, Elizabeth Ann, Araminta & Sarah Matilda Coppin Heirs of John Coppin, dec.

Be it remembered that now here on the first Monday in June, being the third day of the same month, in the year of our Lord one thousand eight hundred and twenty two, the Chief Judge and Associate Judges of the second Judicial District of Maryland in pursuance of the directions of the Act of Assembly in such case made and provided, transmit to the Court of Appeals here the record of proceedings of a plea which was lately depending before them in the County Court of Cecil, between

James, John, Mary and Peregrine Price their Lessee plaintiffs and John Coppin defendant, wherein the said County Court gave Judgment for the said James, John, Mary and Peregrine Price their Lessee, against the said John Coppin, and from which said Judgment the said John Coppin appealed to the Court of Appeals here, the tenor of which said record & proceedings is in form following

State of Maryland Cecil County to wit. At a County Court of the County and State aforesaid begun and held at the Court house in Elkton on the first Monday of April being the second day of the same month, in the year of our Lord Eighteen hundred & twenty two — Were present The Honble Richard Earle Esquire Chief Judge, Samuel Purnell, Thomas Worrell Esqr Associate Judges — Frances Gillespie Esqr Sheriff. James Sewall Clk

In the Record and proceedings of the same Court among others is the following to wit.

D.C. James Price & others their Lessee — vs — D.Dg. John Coppin

Ejectment &c. Trial and Verdict for plff. &c.

Be it remembered that heretofore, to wit, on the twenty sixth day of January in the year of our Lord One thousand eight hundred & twenty one John Senn by Ezekiel F. Chambers Esqr his Attorney, declared in the Court here against Richard Hume in a plea of Trespass and Ejectment with notice thereto annexed in manner and form following to wit. Cecil County ss. Richard Hume late of Cecil County was attached to answer unto John Senn in a plea wherefore with force and arms at Cecil County aforesaid, he entered into all that tract or parcel of plantable land called "Sylvanus Folly" lying and being in Cecil County aforesaid containing Two hundred and forty acres of land more or less, which James Price John Price, Mary Price and Peregrine Price demised to the said John for a term of years which is not yet expired, and ejected the said John from his said farm, and other wrongs to the said John then and there did to the great damage of the said John, and against the peace government and dignity of the State &c. And whereupon the said John by E. F. Chambers his Attorney complains that the said James Price, John Price, Mary Price & Peregrine Price heretofore to wit, on the first day of January Eighteen hundred and twenty at Cecil County aforesaid demised to the said John all that the said tract or parcel of plantable land called "Sylvanus Folly" lying and being in the County aforesaid containing Two hundred and forty acres, of land more or less with Fee Fard and Fee Bote the same to the said John and his assigns from the thirty first day of December then last past for & during & unto the full end and term of fifteen years from thence next ensuing and fully to be complete and ended, by virtue of which said demise, the said John entered into the said tract or parcel of plantable — with the appurtenances and was thereof ~~#~~ possessed, and being so possessed ~~possessed~~ thereof the said Richard afterwards, to wit, on the said first day of January in the year Eighteen hundred & twenty with force and arms &c. that is to say with swords staves & knives &c. at the County aforesaid entered into the said tract or parcel of plantable land with the appurtenances so as aforesaid demised to the said John in manner aforesaid for the term aforesaid which is not yet expired and ejected the said John from his said farm, and other wrongs to the said John then and there did to the great damage of the said John and against the peace government and dignity of the State &c. whereupon the said John saith he is injured and hath damage to the value of Five hundred pounds current money therefore he brings his suit &c.

E. F. Chambers Plfs Atty.

Sir — I am informed that you are in possession or claim title to the premises in this Declaration mentioned, or some part thereof, and I being sued in this action as