in the replication to the said third plea hath alleged and they assess the damages of the said Plaintiff by occasion thereof to the sum of Eleven hundred and seventy six dollars and three cents current money. Therefore it is considered by the Court here, that the said Plaintiff recover against the said defendant the said sum of Eleven hundred and seventy six dollars and three cents current money her damages aforesaid by the Jurors aforesaid, in form aforesaid assessed with interest thereon from the 18th day of May in the year of our Lord 1855 until paid, as also the sum of Sixty one Dollars and twenty five cents for her costs and charges by her about her suit in this behalf expended &c & the said plaintiff by the Court here with her assent adjudged; and the said defendant in mercy &c

Test. Joseph Stewart Clerk.

Memorandum. Before the Jurors aforesaid, withdrew from the Bar of the Court here, the said plaintiff and the said defendant, by their attorneys aforesaid, tendered to the Court here their bills of exceptions and which were by the Court here signed and sealed, and which are in form following to wit:

Sarah E. Mitchell vs. Henry S. Mitchell — For Mesne profits.

Plfs 1st Exception.

At the trial of this cause the plaintiff proved by Hezekiah Brawner a competent witness that James D. Mitchell died on or about August AD 1837 possessed of the real estate lying on Mattawoman Creek in Charles County known and called by the name of "Myrtle Grove, that upon the death of said James D. Mitchell without issue his widow Elizabeth A. Mitchell entered into said real Estate and died in the possession thereof sometime in the year 1841, that in the year 1841, immediately upon the death of said Elizabeth A. Mitchell the defendant took possession of said Myrtle Grove estate and that the Defendant hath so possessed the said estate from that time continually to the present time and is still in possession thereof and during all said period of time hath used enjoyed and possessed said real estate and the houses and buildings thereon. That the Defendant and his family have during said period resided in and occupied the dwelling house on said Estate.

The plaintiff further proved that she was a sister of the whole blood of said James D. Mitchell and that he left no other sister or brother of the whole blood & that the defendant was a brother of the half blood of the said James D. Mitchell and of said plaintiff by the same father, but a different mother. The plaintiff therefore read in evidence the record of a Judgment of the Circuit Court for Charles County rendered at July Term 1853 in an ejectment cause wherein the lessee of the present plaintiff was plaintiff and the defendant was defendant made a part hereof and which said record it is agreed may be read in the Court of Appeals from the transcript thereof now remaining in said Court of Appeals and in which said transcript the said Court of Appeals at December Term 1854 rendered judgment of affirmance and on offering said record in evidence the plaintiff disclaimed to recover or demand in this suit the rents and profits of said real Estate anterior to the 1st of May 1846 the date of the demise in the ejectment suit aforesaid. The plaintiff further proved by said Hezekiah Brawner and other

witnesses that the probable annual value of the land in dispute was from four hundred and fifty to five hundred and fifty dollars per annum from the first day of May 1846.

The plaintiff then further to show the annual profits which the plaintiff might have made out of such lands and had been deprived of from the 1st day of May 1846 proved by John W. Jenkins that he owned the adjoining farm to the estate in dispute and that his farm contained less than 800 acres while the Myrtle Grove estate contained nearly 900 acres, and the plaintiff then for the purpose aforesaid offered to prove by said Jenkins that the amount of net profits made by him out of his said farm during the three years next preceding this suit. But the Court rejected said offered evidence, and thereupon the plaintiff excepts and this her Bill of Exceptions is signed sealed and enrolled this 18th day of May 1855.

Peter W. Crain (Seal)

Plaintiffs 2nd Exception.

After the evidence stated in the foregoing exception made a part hereof the Plaintiff read in evidence the Bill and Answer in a cause in the High Court of Chancery made a part hereof as follows:

"To the Honorable Theodorick Bland Chancellor of the State of Md.

The Bill of Complaint of Sarah E. Mitchell Respectfully sheweth that on or about the Eleventh day of August 1837 a certain James D. Mitchell of Charles County departed this life seized and possessed of large & valuable Real and personal Estate, having duly executed and published his last Will and testament a certified copy thereof marked Complainants Exhibit "A" is herewith filed and prayed to be taken as part of this bill of Complaint. That Elizabeth A. Mitchell the widow of said testator obtained from the Orphans Court of Charles County letters testamentary on the Estate of said James D. Mitchell and returned inventories of the personal Estate of said testator amounting to the sum of Twenty thousand one hundred and fifteen dollars and Nineteen and a half cents and died on or about the twenty third day of August 1841. Your Oratrix further sheweth that letters of administration de bonis non on the Estate of said James D. Mitchell were granted by the Orphans Court of Charles County to a certain Henry S. Mitchell who is prayed to be made a defendant, who returned inventories of the assets unadministered by the said Elizabeth which came to his hands to the amount of nine thousand six hundred and forty dollars and seventy five cents ($9640.75) as will appear by reference to certified copies of said inventories marked complainants Exhibit B.C. are herewith filed and prayed to be taken as part of this Bill. Your Oratrix further sheweth that the said James D. Mitchell left no issue or descendants at his death and no brother or sisters except your Oratrix who was his sister of the whole blood and the before mentioned Henry S. Mitchell who was his brother of the half blood, and she charges that as one of the distributees of the personal Estate of said James D. Mitchell she is entitled to an account of the administration of said Henry S. Mitchell adm. D.B.N. as aforesaid and to the payment of such surplus or balance as may be found due to her upon the settlement of said account. Your Oratrix further sheweth that she claims to be a creditor of the Estate of said James D. Mitchell