1 The Defendants

That if the Jury shall find from the evidence that Thomas Boone was seized in fee simple of the three parcels of land devised by his Will, offered in evidence by Plaintiff, to his three sons, and shall find that the said three parcels constituted one entire farm or place upon which the said Thomas Boone resided at the time of making his said Will, that he had no other farm or plantation; and that the said parcels ~~so devised to his~~ son were not, in fact during his lifetime separated by the courses & distances mentioned in said Will or by any similar divisions but were occupied by said Thomas Boone, as a whole then by the true construction of the will of the said Thomas Boone all of the said parcels constituted the dwelling plantation devised to his wife Sarah Boone for her life.

No 2. The Defendants

That if the Jury shall find from the evidence that Thomas Boone was seized in fee simple of the land sued for in this action and that the same was a part of the dwelling plantation of the said Thomas Boone at the time he made the will offered in evidence by Plaintiff then the same passed by virtue of the said Will to his wife Sarah Boone for and during her life.

3. The defendants prays the Court to instruct the Jury that, if the Jury shall find that Thomas Boone was seized in fee simple of the tract of land sued for in this case that it is the same land devised to his son Richard Boone by the Will offered in evidence by the Plaintiff and that said tract was a part of the dwelling plantation of the said Thomas Boone which by his said Will he devised to his wife Sarah Boone for her life - and shall also find that Sarah Boone was living and seyed of the said dwelling plantation by vertue of said devise at the time of the making and publishing of the will of John C. R. B. Boone offered in evidence by the Defendants and that said Will was at the time mentioned therein duly executed by him in the presence of three credible witnesses who duly attested the same; and shall further find that Richard Boone had departed this life without issue prior to or during the year 1784, and that Stephen Parlot Boone and Eleanor Parlot Boone were in being at the time of the making of the will of the said John C. R. B. Boone that the said Eleanor is still living, and that the said Stephen lived until 1815 or after and died leaving issue which are still living or were living at the time of John C. R. B. Boones death then the Plaintiff is not entitled to recover as heir at law of the said John C. R. B. Boone.

And the Defendant Eleanor Burke also prayed the Court to give the Jury the following additional instructions, viz:

If the Jury believe from the evidence aforesaid that Eleanor Burke the defendant was at the time of the delivery of the declaration on ejectment in this suit a married woman, the wife of Jacob Burke, then the plaintiff cannot recover against the said Eleanor in

this action

The Court thereupon granted the Plaintiffs said first and second prayer (the law of the said first prayer being also conceded by the Counsel of the defendants) but rejected the Plaintiffs third prayer; and rejected the Defendants first prayer and the said additional prayer of Eleanor Burke, but granted the said second and third prayers of the Defendants, and instructed the jury as therein prayed. And to the granting by the Court of the said second and third prayers of the defendants and giving the instructions therein prayed, and to the rejection of the Plaintiffs said third prayer, the Plaintiff excepted & prayed the Court to sign & seal this his Bill of exceptions which is accordingly done this 25 day of June A. D. 1859

John H. Price (Seal)

And afterwards, to wit, on the twelfth day of December in the year eighteen hundred and sixty, the said Eleanor P. B. Burke and John Slatte by their Attorneys aforesaid files into Court here the following prayer for appeal, to wit:

Chamberlaine & Lesser
vs
Burke & Slatte

In the Circuit Court for Baltimore County.
The Defendants in the above case pray an appeal to the Court of Appeals
H. Winter Davis
Levin Gale
Attys for Defts.

and to them it is granted.

It was thereupon ordered by the Court here that a Transcript of the Record and proceedings in the plea aforesaid with all things thereto relating be transmitted to the Court of Appeals of the State of Maryland and the same are hereby transmitted accordingly.

Test: Geo. H. Carman Clk.

In Testimony that the aforegoing is a full and true transcript taken from the Record of Proceedings in the Circuit Court for Balto. County in the herein entitled cause as far forth as process has been therein had. I hereto set my hand and affix the seal of the Circuit Court for Balto. County aforesaid on this twenty ninth day of January A.D. 1861

(Seal Place)

George H. Carman
Clerk of the Circuit Court for Balto. County

Plaintiffs Costs		Defendants Costs	
Atty.	3.33 1/3	Atty	3.33 1/3
Clk	10.50	Clk	5.20
Sumter Shff.	1.17	Hook Shff	10.46
Sole "	2.34	Crier	.35
Hook "	6.96	Witnesses	1.00
Crier	1.30	Record	26.25
Witnesses	3.1		" " "
Addl. Clk	.25		