April Term 1868.

in fact, since the 19th day of January 1787 and should not find from any evidence in the cause that there was not in fact any child or descendant of the said John Giles living at the death of the said Jacob Giles and that there was not in fact any child or descendant of the said Nathaniel Giles living at the death of the said Jacob Giles then the Jury are not at liberty to presume from the evidence in the cause that the said Jacob Giles died intestate and without issue since the 19th day of January 1787 and are not at liberty to presume and cannot find from any evidence in the cause that at the time of the death of the said Jacob Giles there was no child or descendant then living of the said John Giles brother of said Jacob Giles nor any child or descendant then living of the said Nathaniel Giles brother of the said Jacob Giles.

And the plaintiff by his Counsel in addition to other legal grounds of objection to the said prayers offered on the part of the defendant shewed to the Court the following special matters of objection thereto taken and insisted on by him not waiving any others viz.

To the said first stated prayer of the defendant, that it requires the Court to assume that there is evidence in the cause that none of the Connexions of the said Jacob Giles have been heard from here since the 1st March 1732 and that there is no tradition family record reputation or report as to what became of them and to the said last stated prayer of the defendant that it involves the assumption by the Court that the plaintiff has shown no right or title to the land in question as heirs of the brothers and sisters of Jacob Giles (other than his sister Ann) or as heirs of the descendants of such upon the hypothesis suggested by said prayer that the inheritance of said Ann vested in such brothers or sisters or some of them or in their descendants or some of them, and that said last mentioned prayer also assumes that there is competent evidence that Nathaniel Giles the said testator and Nathaniel Giles the Brother of the said Jacob Giles are one and the same.

April Term 1868.

But the Court rejected the said Ninth prayer of the plaintiff and refused to give to the Jury the instruction therein prayed and granted both of the said prayers of the defendant and instructed the Jury in the language thereof, and in granting the said two prayers of the defendant and in rejecting the said prayer of the plaintiff the Court further instructed the Jury that there was no evidence in the cause from which they could find that the lessors of the plaintiff or any of them were entitled to the land demanded in this suit as the heirs at law of Jacob Giles, nor of the said John Giles nor of the said Nathaniel Giles, nor of any issue or devisees of the said Jacob John or Nathaniel or any other person in whom the Jury can or ought to find that the inheritance of said land claimed in this action vested at or after the death of the said Jacob Giles and to the said refusal of the said Ninth prayer of the plaintiff and to the said granting of the said two prayers of the defendant, and of each of them and to the giving by the Court to the Jury of the said instructions prayed for by the defendant as aforesaid and also to the giving of the said additional instruction to the Jury and requiring them to find for the defendant in accordance therewith the plaintiff thereupon excepts and prays the Court to sign and seal this his Bill of Exceptions which is done accordingly this 14th day of June A D 1864.

R. W. Martin (Seal)

Lessee of Spriggs and others vs Randall H Moale | In the Superior Court of Baltimore City.

Defendants Bill of Exceptions.

The evidence having been given as stated in the plaintiffs exception and the prayers having been offered on the part of the plaintiff and defendant respectively, as stated in the said exception of the plaintiff and which exception of the plaintiff is referred to for the said evidence and prayers to have the same effect as if the same were herein fully stated) the Court granted the 1st 2d 3d 4th 5th 6th 7th and