who is a daughter of Mrs. Fannie A. Halstead mentioned above, who is still alive.

The plaintiff also offered evidence, tending to prove that the annual value of the said property entire, during the time the defendant has had possession and use thereof, has been two hundred and fifty dollars per annum, which possession commenced about the month of November, 1876, and in which the plaintiff claimed an undivided fourth part.

The defendant, then on his part, offered in evidence the proceedings in the Equity cause No. 426, in said Court on the Equity side.

Wherein the said Francis A Halstead and others, were complainants, and Lewis Tinges and others, were defendants. And the defendant accompanied said offer, with the statement, that he would prove that he was the identical party who purchased the property named in the declaration under the decree in said cause, as is shown by the trustee's report therein, and that he has paid the purchase money for the same, and has a deed thereof from the trustee. To the admissibility of which record, the plaintiff, by his counsel, objected, because she was not a party to the said cause, and not bound thereby, or by the proceedings in said cause; which objection the Court sustained; whereupon the defendant excepted, and prays the Court to sign and seal this bill of exceptions, which is done this 13th day of June, 1882.

Oliver Mellor, (Seal)

Plaintiff's Exception.

After the signing and sealing of the aforegoing exception on the part of the defendant, which is prayed to be taken as part of this, the plaintiff offered the following prayer:

The plaintiff submits to the Court, the following proposition of law, to wit:

That if the Court finds that Mrs. Ann Lamden died in the month of March, 1872, seized of the legal title to, and possessed of, the premises mentioned in the declaration; that she left the last will and testament which has been admitted in evidence; that she owned said property before and at the time of making said will; and up to the time of her death; that Miss Harriet Goldsborough, mentioned in said will, died before the testatrix, and that Capt. Wm Hy. Gardner, also mentioned therein, died in December, 1871, leaving two daughters Mrs. Halstead and Mrs. McKnight, and two grand-daughters, to wit, Fannie Gardner, a daughter of Farragut Gardner, son of said Capt. William H. Gardner, and that she died in the year 1859, and the present plaintiff, the daughter of Mrs. Halstead, who is now alive; and that the plaintiff was born before the death of Capt. Wm Henry Gardner, then, according to the proper construction of said will, the plaintiff is entitled to one undivided fourth of whatever the Court may find to be the net annual value of said property, during the occupancy of the said property by the defendant.

And the defendant - the three following prayers.

Defendant's 1st Prayer.

The defendant prays the Court to rule and to decide from the agreed statement of facts, that under the devise in the will of the said Ann Lamden, Capt. William H. Gardner, therein mentioned, took a vested estate, in fee in the remainder in the real estate, the subject of this suit, which, on the death of the testatrix descended to his heirs at law, of whom the plaintiff in this action is not one, and therefore, not entitled to recover.

Defendant's 2d Prayer.

The defendant prays the Court to rule, and to decide from