and agree to and with the said Agness Gaither her heirs executors administrators or assigns that he the said Beal Gaither of Gerrard and his heirs the said part of a tract or parcel of land and premises hereby granted bargained and sold and every part and parcel thereof with the appurtenances thereunto belonging to her the said Agness Gaither her heirs and assigns against him the said Beal Gaither of Gerrard and his heirs and against all and every person or persons whatsoever claiming or to claim any right title or interest in and to the same or any part thereof shall and will hereafter warrant and forever defend by these presents. In witness whereof the said Beal Gaither of Gerrard hath hereunto subscribed his name and affixed his seal the day and year herein before written.

Signed Sealed and delivered in the presence of, Lyde Griffith, Henry Howard of Jno. } Beal Gaither of (Seal)

Montgomery County, to wit, Received on the day of the date of within deed of and from the within named Agness Gaither the sum of twelve hundred dollars current money of the United States being the consideration mentioned in the said deed.

Witness, Lyde Griffith, Henry Howard of Jno. } B. Gaither, of G.

State of Maryland Montgomery County, to wit:

On this 26th of September 1828 personally appears Beal Gaither of Gard of the County aforesd being the grantor named in the within deed or instrument of writing before us two justices of the peace for the County and acknowledge the within instrument of writing to be his act and deed and the lands and premises therein mentioned to be the right and estate of the with named Agness Gaither party grantor also named her heirs and assigns forever according to the purport true intent and meaning of the said instrument of writing and the acts of assembly in such cases made and provided.

Taken and certified the day and first above written.

L. Griffith.
Henry Howard, of Jno.

Test. Jno. A. Carter, Clk of Montgomery Cty Court.

At which said before mentioned day being the day to which the said proceedings were last postponed, to wit, the thirteenth day of August in the year of our Lord one thousand eight hundred and forty four come again into Court here the parties aforesaid by their attornies aforesaid, when the said Court, after having read and carefully considered the papers and testimony filed in the cause and having heard the said parties by their attornies aforesaid and mature deliberation thereupon had, pass their decree in the premises in form following, to wit.

Rachel M Gaither vs. Washington Gaither & others. } In the Orphans Court of Montgomery County. The above cause having been set down for hearing and the Court having heard the parties by their counsel and having carefully read the evidence and papers filed after mature deliberation thereon being of opinion that the paper filed in the cause marked B. purporting to be the last will and testament of Agness Gaither late of Montgomery County deceased, and bearing date the 23d day of August 1841 is not the genuine last will and testament of the said Agness Gaither, It is thereupon this 13th day of August 1844 ordered, adjudged and decreed by the Orphans Court of Montgomery County and the authority thereof that the said paper filed in this cause marked B. purporting to be the last will and testament of the said Agness Gaither and bearing date the 23d day of August 1841 be taken and held as utterly null and void and the same be not admitted to probate. It is further ordered that the costs of the above suit, shall be paid out of the estate of Agness Gaither late of said County deceased.

Samt. C. Weis.
Wm. Orrealo, Jr.
John Jones of N.

Whereupon the said Washington Gaither, Mary A Gaither, Sarah Ann Mercer and Samuel C Gaither being present in Court by their attorneys aforesaid prayed an appeal from the said order and decree of the Court aforesaid to the Court of Appeals for the Western Shore of Maryland, which being granted, Thereupon the record and proceedings aforesaid with all thing appertaining thereunto, are hereby transmitted to the Court of Appeals for the Western Shore of the said State of Maryland accordingly.

Jas. W. Anderson, Register of wills for Montgomery County.

State of Maryland, Montgomery County, Set.

I hereby certify that the aforegoing record has been truly copied from the record and proceedings of the Orphans Court of Montgomery County aforesaid.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the Orphans Court of Montgomery County this twenty sixth day of November in the year of our Lord one thousand eight hundred and forty four.

(Seal)

Jas. W Anderson, Register of Wills for Montgomery County.

Plaintiffs Costs — $ 31. 31.
Defendants costs — $ 30. 23.
Cost of Record — $ 31. 09.

And now come into the Court of Appeals here, as well the said Washington Gaither, Mary A Gaither, Sarah Ann Mercer and Samuel C Gaither by Charles H Pitts and Reverdy Johnson their attorneys, as the said Rachel M Gaither by Alexander Randall and John Brewer her attorneys, and thereupon, on motion of the said Rachel M Gaither by her attorneys aforesaid, it is ruled by the Court here, that the said Washington Gaither, Mary A Gaither, Sarah Ann Mercer and Samuel C Gaither assign the errors in the record of proceedings aforesaid, or in the giving the Decree aforesaid, so as aforesaid brought before the Court of Appeals here, for correcting the errors supposed to be therein, or judgment by the Court of Appeals here,