J. Brendle and Wife vs Strobel et al	In the Circuit Court for Baltimore City To the Hon. William George Alexander Judge of the Circuit Court for Baltimore City. The defendants in the above cause except to the satisfaction to so much

of the Account stated and filed to the Auditor in said account in allowing the claim of John George Brendle First Because there is not sufficient evidence to establish said claim Second Because even if there is evidence to show a claim is barred by the statutes of limitation Third For the reasons which they beg leave to show upon the hearing of these exceptions. John J. Snyder Solr for Except.

And on the same day and year aforesaid the following Petition of defendants to amend their answer was filed to Wit J. Brendle and wife vs. Strobel et al In the Circuit Court for Baltimore City To the Honorable William Alexander Judge of the Circuit Court for Baltimore City The Respondents in the above entitled cause respectfully ask leave to amend their answer heretofore filed by them in this Honorable Court in said cause by adding that if said John H. Miller ever was indebted with said Complainants said claim is barred by the statute of limitation and was at the time of the institution of said proceedings in such and as in duty &c. John L. Snyder Solr for Respondents

Whereupon the Court hereupon passed the following Order to Wit In the Circuit Court of Baltimore City Decr 1st 1864 Ordered that the matter of the foregoing petition be set down for hearing on the 10th inst. provided a copy of said petition and of this Order be served on the Solicitor of the Complainants on or before the 5th inst. Wm Alexander

and on the back of said Order is thus endorsed to Wit Served a copy this Samuel Snowden

And afterwards to Wit on the 9th day of January in the year 1865 the defendants filed here their plea of limitation to Wit

J. Brendle et al vs Strobel et al	In the Circuit Court for Baltimore City Plea of John George Strobel and Catharine Maria Strobel his wife John Henry Grand and Christian Grand his wife and Henry Kallzer Executor &c

of John H. Miller deceased to the Bill of Complaint of John J. Brendle and Jacob J. Brendle his wife against them in this Honorable Court exhibited These defendants by protestation not confessing or acknowledging all or any part of the matter and things in the said Bill of Complaint contained having reference to an alleged indebtedness by John H. Miller to said Complainants or either of them to be true as the same are therein set forth for plea nevertheless to the said bill as plead and answer that if the Complainants or either of them ever had any cause of action in such against the said John H. Miller deceased for or concerning the matters in the said bill mentioned touching or having reference to said alleged indebtedness by said Miller to them or either of them which these defendants do in no sort admit such cause of action or suit did accrue to about three years before the filing of the said bill or before suing or suing out process against these defendants to appear to answer said bill nor did said John H. Miller or these defendants or either of them at any time within three years next before the bill was exhibited in process served on or issued against these defendant to appear and answer the same

or to render satisfaction or to pay any sum or sums of money for or by reason of said matter charged in said Bill, All which matters and things &c

John J. Snyder Solr for defts.

And afterwards to Wit on the 31 day of January in the year last aforesaid the Court here sitting in said cause the following Opinion in Writing in Form following to Wit.

Johanna Gr. Brendle and wife vs Johanna Gr. Strobel and Wife John Henrich Grand and Wife et al	In the Circuit Court for Baltimore City Exceptions to Auditors Report

The Bill in this case is a Creditors Bill and also a Bill for the sale of Real Estate and distribution of the proceeds Complainant Dorothy Brendle and the Respondents Catharine Maria Strobel and Fische Margenetha Grand are descendents in remainder of Johann H. Muller who died the 12th of March 1837 leaving a last Will and testament in which after payment of all debts he gives all his Estate to his Wife Margenetha Adelheim Muller during her natural life with the power in case the income should not be sufficient to support her, to sell absolutely or incumber the whole or any part thereof, And after the death of his Wife then the Estate remaining to his three daughters (who are the above named Complainants and respondents) in equal parts of and thirds each the Respondents except to the allowance of $1560 in the Auditors Report claim of Complainant J. Brendle, The First Exception goes to the merits and denies the sufficiency of the evidence to establish the claim The Second sets up the Statute of limitations and there is also the plea of limitations filed on the 9th of January 1865 It is contended by Complainant that the plea of limitations not having been set up in the answer, and not going to the merits is too late and cannot be sustained Looking to all the circumstances surrounding this claim the state of the pleadings and the agreement of the Solicitors filed the 3 August 1864 for the sale of the property the reservation in which agreement was assented to embrace all defences which could be set up against this claim and also to the fact that the exception is filed in time to meet the exigency of the Auditors report of the allowance of this claim it is by no means certain that the plea or exception is too late, were it necessary to a successful defence But I do not deem it necessary to a successful defence and therefore express no opinion as to whether the plea of limitations is in time or not in this case. The claim as set out in Complainants Exhibit A is against the Estate of John Muller deceased for Board and Washing of said Muller from the 19th day of March 1847 to the 12th of March 1857 the day of his death The testimony taken before the Auditor does not establish any privity of Contract except from implied between J. Brendle and Muller it only shows that Brendle and Muller lived under the same roof and that Mrs Muller sometimes rendered services to J. Brendles family, nothing more J. Brendle assigned his claim and became a witness and this from his testimony that a solution is to be found and a fair estimate reached of this pretended claim J. Brendle in his cross examination says when he married Mullers daughter she was living with her father, and it was the desire of the his, J. Brendles wife and her father to live together He married her on the 12th of March 1847 and on the 19 or four days after they went all living together, There was nothing said about board and he never demanded any board, They lived together about ten years and Muller died leaving the Will above referred to and Mrs Muller continued to live in J. Brendles family with the daughter up to the time of her death on the 16 of October 1863 receiving