

[This suit originated in the filing of a creditor's bill on the equity side of Charles County Court, on the 12th of November, 1840, against Maria C. Brawner, executrix, and the heirs and devisees of Henry Brawner, deceased, and was subsequently transferred to this court, under the Act of Assembly in relation to such cases depending in the county courts, constituting the First Judicial District.

Maria C. Brawner departed this life in the latter part of July, 1847, and on the 22d of February, 1848, a bill of revivor was filed against the defendant, Dent, as administrator d. b. n. of said Brawner.

One of the claims of the suing creditors is founded upon a promissory note made by said Brawner and one Ignatius Stewart, in favor of Brooks, Stephens & Co., dated the 22d of April, 1837, for the sum of \$2112, and payable six months after date. The other is on an open account for articles of merchandise sold to said Stewart on the 15th of October, 1836, and amounting to the sum of \$1901 30, with interest to the 18th of September, 1838, on the credit of a letter from said Brawner, undertaking the payment of the same; of which the original being lost, parol proof was offered.

Henry Brawner departed this life sometime in the fall of 1838, having first made and duly published his last will and testament, by which he devised to his wife, Maria C. Brawner, in fee, a tract of land called "Elleslie," and constituted her his sole executrix, which office she undertook, and returned an inventory of his personal estate, amounting to \$7943.

This tract was purchased by the testator, at a chancery sale, made in 1825 or 1826, by Daniel Jenifer, acting as trustee, for the sum of \$5161 87, and was conveyed to him by the trustee, on the 22d of August, 1835, and it continued until his death, upon the land records of Charles county, as his absolute property and estate.

Mrs. Brawner, the widow and devisee, in her answer, claims this tract of land as her own, or that she must be regarded as a preferred creditor thereof, by reason of an agreement between her and her husband, set up in her answer, that she would con-