the true measure of damages. That, in ascertaining these amounts they must confine themselves to a consideration of the injury sustained prior to the 21st of March 1822, the day of issuing the writ. That in the estimation of the damages it is fair & proper that the jury should take into consideration the uses to which the property has been devoted since the infliction of the injury. & in estimating its permanent injury, it is right and proper that the jury should look at its capacity, & of course its value for other purposes, as it will be only by an examination and consideration of these matters that the real injury & actual damages can be fairly ascertained.

That if the Jury believe the Plaintiff's property has been injured by the diversion of the Waters from the Western Cove to the Eastern Cove, and that such diversion was neither malicious, negligent or careless, but was even beneficial to the general interests of the City, made with the best advice & with due circumspection consulting the general prosperity of the City & its inhabitants, either for securing the health of the City or of preserving, more effectually, its navigation, still notwithstanding the Jury should believe these facts, the Plaintiff is entitled to damages for the injury the Jury shall find the Plaintiff may have sustained, inasmuch as this general improvement would, in such case, be made for the benefit and advantage of the inhabitants of Baltimore, and it would be unjust that the Property of the Plaintiff should be deteriorated (& to the extent of such injury) deprived of his property without remuneration."

To which opinion and direction of the Court to the Jury, the Defendants, by their Counsel, prayed leave to except, and that the Court would sign and seal this, their bill of exception, according to the form of the Statute in such case made & provided, which is accordingly done this fourteenth day of May, in the year of our Lord, one thousand, eight hundred and twenty eight — Stevenson Archer (Seal)

Barron, survivor of Craig, vs. The Mayor & City Council of Baltimore

At the trial of this cause, the Plaintiff further to support the issue on his part, in addition to the evidence stated in the aforegoing bills of exceptions, offered in evidence to the Jury by Hezekiah Waters, a competent witness, sworn at the Bar, that he is the proprietor of a wharf, about two or three hundred yards South from the years 1814 and 1815 the income of his Wharf was about $2000 per annum - that from 1815 to 1817 it was from $1500 to $2000, and that the income of his wharf has depreciated by the depression of commerce about fifty per cent - the Plaintiff also offers in evidence that his wharf has births for eight ships, & that the wharf of the Plaintiff has births for five ships - that his wharf has storehouses, and that the Plaintiffs has none - that the wharfage of the Plaintiffs wharf from the year 1815 to 1817, he supposes to have been worth from $800 to $1000 per annum. The Plaintiff also offers in evidence by James Beacham, a competent Witness, that in the year 1820, he rented the space between the piers of the Plaintiffs wharf, as a ship yard, for $300; that in the year 1825, he rented the whole of the wharf property, including the spar house, 120 feet long, and other buildings, except the blacksmith and boat builders' shop, for $700 per annum - that if there was the same depth of Water there now, as in the year 1816, the property would be worth about $400 or $500 more to him for his purposes - the said Witness also stated, that the ship Franklin, of about 300 tons, drawing about 15 or 15½ feet Water, was at the said wharf, he thinks for the last time, in the year 1823 or 4, but after being

(delayed