

its value for other purposes, as it will be only by an examination and consideration of these matters that the real injury and 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, and with due circumspection, consulting the general prosperity of the city and 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, in as much 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, (and 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 and 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 AND 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 foregoing 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 \$2,000 per annum; that from 1815 to 1817 it was from \$1,500 to \$2,000; and that the income of his wharf has depreciated by the depression of commerce about fifty per cent. The plaintiff also offered in evidence, that his wharf has births for eight ships, and that the wharf of the plaintiff has births for five ships; that his wharf has storehouses, and that the plaintiff's has none; that the wharfage of the plaintiff's wharf, from the year 1815 to 1817, he supposes to have been worth from \$800 to \$1,000 per annum. The plaintiff also offered in evidence, by James Beacham, a competent witness, that, in the year 1820, he rented the space between the piers of the plaintiff's 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 boatbuilder's 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 350 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 by the shallowness of the water, when loaded had some difficulty in getting out, and has not returned. The plaintiff also offered evidence, that his piers were built in the year 1816, and that they cost \$6,000.

Whereupon the said defendants prayed the opinion and direction of the court to the jury, that, upon the said evidence, the plaintiff is not entitled to

recover beyond the loss he may prove himself to have sustained in the loss of income from the said wharf, during the time stated in the declaration, unless the jury should find, from the evidence, that there has also been a permanent injury done to the wharf itself, in addition to the impediment of the navigation to it; which opinion and direction the court refused to give to the jury, and referred the jury to the opinion contained in the first bill of exceptions, which were accordingly again given to the jury, as they are in the first bill of exceptions stated; 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 his bill of exception, according to the form of the statute in such case made and provided, and 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.

MAYOR AND CITY COUNCIL.

At the trial of this cause, upon the evidence offered to the jury, as detailed in the preceding bills of exception, the defendants prayed the opinion and direction of the court to the jury. 3. That as the present action was brought on the 21st of March, 1822, and as no evidence has been offered to show that any particular vessel, before the institution of this suit, was prevented from going to said wharf, by reason of the diminished depth of the water in the said cove, or at or near the said wharf, the plaintiff has not shown himself entitled to recover, in this action, any special damage for the loss of wharfage at said wharf; which opinion and direction the court refused to give; and the defendants, by their counsel, prayed leave to except, and that the court would sign and seal this their bill of exceptions, according to the form of the statute in such case made and provided; and 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.

MAYOR AND CITY COUNCIL.

At the trial of this cause, upon the evidence offered by the plaintiff to the jury, as detailed in the preceding bills of exception, the defendants prayed the opinion and direction of the court to the jury, that no special damage is sufficiently charged in the declaration, and that the plaintiff, upon the pleadings in this case, is therefore not entitled to recover; which opinion and direction the court refused to give; and 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 cases made and 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.]