33.

by an examination and consideration of these matters that the real injury & actual damages can be fairly ascertained. That if the Jury believe the Plaintiffs property has been injured by the diversion of the waters from the western bay to the eastern bay, and that such diversion was neither malicious negligent or careless, but was carried beneficially 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 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 unjustly that his property of the Plaintiff should be deteriorated (& to the extent of such injury) deprived of this 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 exceptions, 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.

Clement Dorsey

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

(1) 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 & the Defn 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 1816 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 offered in evidence that his wharf has thirteen or eight Stiles & that the wharf of the Plaintiff has thirteen for five Stiles, that his wharf has two houses and that the Plaintiffs has more, 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 offered in evidence by Dennis Beaumont 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 four houses 120 feet long and other buildings except the block smith 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 Brick Franklin of about 350 tons, drawing about 13 or 13½ feet water was at his wharf