charged as the said defendant hath also by pleading alleged. Whereupon the said defendant by his attorney aforesaid prays Judgment against the said plaintiff of an upon the verdict aforesaid by the Jurors aforesaid in form aforesaid given, and the said plaintiff by his attorney aforesaid saith that the Court here ought not to proceed to render Judgment upon the said verdict and prays that Judgment against him of and upon said verdict by the Jurors aforesaid in form aforesaid given may be stayed and filed in Court he the following reasons that is to say.

Crawfurd vs Berry. — Motion for a new trial reasons April Term 1839 - May 16th 1839. 1st Because the verdict was in opposition to plain direct positive and uncontradicted proof on the part of the plaintiff.

2d Because the verdict was in opposition to the admissions of the defendant as to the plaintiff's true location of the first line of "Green Wood Park" Enlarged as laid down on the plat.

3d Because the plats returned in this cause contain clear and satisfactory evidence that the location of the disputed line as laid down by the plaintiff of his first line of Green Wood Park Enlarged and the second line of Out Lott is the correct one and that the defendants location of said line is incorrect and cannot be true. 4th Because at the end of the second line of Green Wood Park Enlarged which is also admitted to be the termination of the third line of Out Lott there is planted an admitted boundary stone, and it is impossible for the defendant to locate said first line in such a manner as to strike said boundary without making the same location which has been made by the plaintiff of said line.

Thomas F. Bowie and John Johnson, Attorney for plaintiff.

Whereupon all and singular the premises being seen and by the Court here fully understood and mature deliberation being thereupon had for that it appears to the Court here that the said verdict is in no wise insufficient or erroneous and that the same ought not to be set aside and that no new trial ought to be had of the issues aforesaid. Therefore it is considered by the Court here that the said plaintiff take nothing by his writ aforesaid but be in mercy for his false clamour, thereupon and that the said defendant go thereof without day &c. and it is further considered by the Court here that the said defendant recover against the said plaintiff the sum of $ by the Court here on his assent adjudged unto the said defendant for his costs and charges by him about his defence in that behalf laid out and expended and that he have thereof his execution &c. Memd. before the Jurors aforesaid withdrew from the bar of the Court here the said plaintiff his attorney aforesaid filed in Court here the following bill of exceptions.

Thomas B. Crawfurd vs Zachariah Berry. — In Prince George's County Court. At the trial of this cause the plaintiff to maintain the issue on his part read in evidence to the Jury the certificate of resurvey of the tract of land called Green Wood Park in the declaration mentioned and proved that the same corresponded with the location thereof made by him upon the plots and proved title in himself to said tract. He further proved that the tree just within the plaintiff's location of the first line of his tract indicated upon the plat by the mark I. was cut down by the plaintiff some time in the year eighteen hundred and thirty five and that after being cut thus down the timber of the said tree was carried away by the defendant he further proved that this cutting down and carrying away was shortly before the institution of this suit; The defendant thereupon to maintain the issue joined upon his part read to the Jury the patent for the tract of land called "Out Lott," and proved that the same corresponded with the location thereof made by him upon the platt and proved title in himself to said tract. The defendant then further proved that some short time subsequently to the year eighteen hundred a survey was made

of the first and second lines of Green Wood Park and the second and third lines of Out Lot" being a dividing line between the parties by John Magill a former surveyor of Prince Georges County in the presence of and with the consent of the present defendant and the late Nathaniel Crawfurd under whom the plaintiff claims when the said first line of Green Wood Park and second of "Out Lot" being the dividing line was run from the beginning thereof at (I) upon the platt and from that point along the line indicated by the black dotted lines being the defendants location thereof to the white oak tree at the end of said line at the letter C and proved that the said tree was then with the consent of said Crawford and Berry marked as a bounded tree and as the termination of said first line of the plaintiff's tract and second of "Out Lot" and dividing line between the said parties and proved by witnesses that said tree now stands at the end of said line as located by the defendant. The plaintiff thereupon proved that in the year eighteen hundred and thirty five, when a private survey of said line was made by the defendant no marks were visible on said tree and that the said tree was then marked by blazing the same and then for the purpose of proving that the witnesses who had proved on the part of the defendant that said tree was marked upon the said survey made by Mr Gill and agreed upon as a bounded tree at the end of the said lines were mistaken, and also for the purpose of proving that this location of Green Wood Park was the correct location offered to read to the Jury the following certificate of resurvey of said tract made for the said Nathaniel Crawfurd in the year seventeen hundred and ninety nine.

"The State of Maryland Prince Georges County Set. By virtue of a special warrant of resurvey granted out of the land office to Nathaniel Crawfurd of the County aforesaid bearing date the twelfth day of June seventeen hundred and ninetty eight to resurvey a tract of land called Green Wood Park lying and being in the County aforesaid originally on the seventh day of July seventeen hundred and seventy granted Nathaniel Offutt for twelve hundred and forty nine acres To resurvey the aforesaid tract of land and to add the vacant land thereto contiguous I hereby certify as surveyor of the County aforesaid that I have carefully resurveyed and laid out for and in the name of him the said Nathaniel Crawfurd of the County aforesaid the aforesaid tract of land called "Greenwood Park," according to its ancient metes and bounds as shewn to me and find the same to contain twelve hundred and fifty acres and three fourths of an acre of land seven acres and one half of an acre of which is taken away by an older survey called "Black Oak Thickett" then remains clear of older surveys twelve hundred and forty three acres and one fourth of an acre, I do certify that I have added to the aforesaid tract of "Greenwood Park," clear of older surveys the quantity of thirty seven acres of contiguous vacant land and have reduced the said tract of "Greenwood Park," with the vacancy added into one entire tract all of which appears by the Plot below. Lastly beginning for the out lines of the resurvey at a bounded white oak the original beginning tree of Greenwood Park and running thence with the lines of said Greenwood Park South eighty eight degrees thirty minutes west ninety two perches, South twelve degrees forty five minutes east two hundred and fifty five perches South sixteen degrees six minutes east one hundred and forty seven perches and nine tenths of a perch South twelve degrees forty five minutes east one hundred and fifty two perches and one fourth of a perch, north eighty eight degrees thirty minutes east four perches and three fifths of a perch, South twelve degrees forty five minutes east seven perches and three fourths of a perch, South thirty degrees thirty minutes east fifteen perches then South eleven degrees thirty minutes east fifty four perches to a white oak tree the beginning of a tract of land called Black oak Thickett, then running with the given line of said tract (reversed) South seven degrees east forty four perches and a half perch, then running with part of the last line of said Black Oak Thickett (reversed) South fifty degrees west forty eight perches to the eleventh line of the tract of land called Greenwood Park, then running with said line South fifty one degrees forty five minutes east forty eight perches to the end thereof then running to include the vacancy South one perch and a half perch South eighty degrees thirty minutes west twenty nine perches and an half perch, South thirty