soil and freehold of a certain John Hoye who owned and possessed the said close of land in the declaration mentioned &c, and that the said John Hoye being so possessed of the said close, the said defendant at the said several times when and so forth, by leave and licence of said John Hoye committed the said several supposed trespasses in the declaration mentioned, to which the plaintiff by his replication replies that "the" close in the said declaration mentioned in which &c, is not now and at the said times when &c, was not the close, soil and freehold of the defendant &c, which is not an answer to the said third plea of the defendant. And for causes of demurrer in law upon the replication to the fourth and last plea by it above pleaded the said defendant, according to the form of the Statute in such case made and provided doth set down and to the Court here express these causes following to wit that is to say.

Because in the said replication to the said plea, the plaintiff does not deny that the said John Hoye was the owner and possessor of the said close, but alleges that before and supposed licence was granted by the said Hoye to this defendant. the said Hoye on the 5th day of January 1848 demised the said close to the said plaintiff to hold, use and occupy from the time of the year from the first day of the said month of January 1848 and that by virtue of said demise he became and was possessed during the continuance of said demise — the lease expired therefor on the first day of January 1851 and the trespasses are laid in the said declaration to have occured from and after the month of June 1851. The replication is not an answer to the plea. And also because there is no such plea pleaded by this defendant in this case.

Because the said replication as far as above demurred to is defective and wants form.

Thomas J. McKaig
Attorney for Defendant

Whereupon all and singular the premises being seen and by the Court here fully understood, and mature deliberation being thereupon had, it appears to the Court here that the said replication of the said Israel Thompson in manner and form aforesaid pleaded in reply and the matters therein contained are not good and sufficient in law for the said Israel Thompson to maintain his said action against the said Baltimore and Ohio Rail Company

And the said Israel Thompson by his attorney aforesaid prays leave of the Court here according to the form of the act of Assembly in such case made and provided to amend his declaration aforesaid and to declare anew against the said Baltimore and Ohio Rail Road Company in the plea aforesaid; and it is granted him.—

Thereupon the said Israel Thompson declares anew against the said Baltimore and Ohio Rail Road Company in form following to wit:

State of Maryland, Allegany County, to wit:

The Baltimore and Ohio Rail Road Company were summoned to answer unto Israel Thompson in a plea wherefore the said Baltimore and Ohio Rail Road Company on the day of June in

the year Eighteen hundred and fifty one and on divers other days and at divers other times between that day and the institution of the suit original in this cause, with force and arms to wit, with &c, at the County aforesaid, broke and entered the close of the said Israel Thompson, there situate and being called "Western Canal Convention" (otherwise called Hoye's Big Pasture") and with its feet and the feet of its servants in walking, trod down, trampled upon, consumed, damaged, spoiled and destroyed the grass of the said Israel Thompson of the value of $1000. on those several days and times growing and being in the said close, and with divers cattle to wit, horses &c, eat up, depastured, trod down, trampled upon, consumed and spoiled other the grass of the said Israel Thompson of the value of other one thousand dollars, on those several days & times there also growing and being in the said close; and with the wheels of carts, wagons and other carriages, damaged, spoiled & destroyed other the grass of the said Israel Thompson, of the value of other one thousand dollars, on those several days and times also growing and being in the said close, and also with the wheels of the said carts wagons and other carriages, tore up, turned up, cut up, subverted and spoiled the soil of the said Israel Thompson in his said close to wit two thousand perches, of the value of other one thousand dollars, and, also with hatches, axes, mattocks and other iron instruments cut down, felled down, grubbed up, stubbed up, prostrated & destroyed the timber trees and other trees of the said Israel Thompson to wit, 100 oak trees, of the value of other one thousand dollars, 100 hickory trees of the value of other one thousand dollars, 100 &c on those several days and times there and there growing standing and being in the said close, and the said timber trees of the value of other one thousand dollars and 50. cart loads of other trees of the value of other one thousand dollars, there and there seized, took, dragged, hauled, carted and carried away, and converted and disposed thereof to its own use and the gates &c, to wit &c of the said Israel Thompson there then erected, standing and being, cut down, broke down, prostrated and destroyed and the materials thereof of the value of other one thousand dollars took and carried away and converted and disposed thereof to its own use; and divers cattle of divers persons, escaped from and out of the closes, fields and commons, adjoining the said close of the said Israel Thompson and there and there trod down, depastured eat up, spoiled and destroyed, other the grass of the said Israel Thompson of the value of other one thousand dollars on those several days and times also growing and being in the said close. And also that the said Baltimore and Ohio Rail Road Company afterwards to wit: on &c, with force and arms &c. at the County aforesaid seized and took their other goods and chattels of the said Israel Thompson, to wit, 100 other oak trees of the value of other one thousand dollars and 50 cart loads of other timber trees of the value of other one thousand dollars &c then there also found and being and carried away the same and converted and disposed thereof to its own use, and other wrongs to the said Israel Thompson there and there did, to the great damage of the said Israel Thompson and against the peace, government and dignity of the state of Maryland &c. And whereupon the said