upon the Case &c. Whereupon the said Charles Carroll Plaintiff in this action by G L. Dulany and C N Pitts his attorney Complains that whereas the Plaintiff on the 1st day of March Anno Domini eighteen hundred and fifty two before and at the time of Committing of the grievance by the said Carroll McTavish defendant as hereinafter mentioned was, and from thence hitherto hath been, and still is lawfully possessed of an ancient Water Mill with the appurtenances situate and being in the County aforesaid, in and upon and near to a certain stream there called "The Patapsco river" with a water race or canal thereto attached, running through upon, and over the close of the said Defendant in the County aforesaid from said Mill to the dam across said stream out of which the water through said race flowed to the plaintiffs said Mill, and by reason of his possession of said Mill with the appurtenances the said Plaintiff during all the time aforesaid of right ought to have had and still of right ought to have the use benefit and advantage of the water of said stream through the said race for the working of his said Mill, and of a road immediately along the banks & margin of said race, for himself and his Servants from the said Mill to the said dam through the said close of the Defendant in the County aforesaid, and so from thence back again to the said Mill, to go return pass and repass on foot and with horses and Oxen and Carts and Wagons with tools and implements at his and their free will and pleasure when and as often as occasion required for the purpose of digging and clearing out the bed of the said race, and of repairing and amending the banks thereof, Yet the said Defendant well knowing the premises, while he the said Plaintiff was so seized of the said Mill with the appurtenances as aforesaid, to wit: On the day and year aforesaid, and on divers other days and times between that day and the day of the impetration of the writ original in this cause, wrongfully, and injuriously, dug holes and planted posts and inserted rails therein, upon, and all along the banks and margin of said race through the said close of the Defendant in upon and along the said road or way of the Plaintiff, and continued and kept up the said fence for a long space of time to wit: continually from thence hitherto, whereby the said road, or way there was during all that time, stopped and obstructed, and the said Plaintiff and his servants could not during all or any part of that time pass or repass on foot, with horses carts, oxen and wagons from the said Mill, along the banks of said race, to dig out and repair the banks thereof from the said Mill to the said dam over the close of the said Defendant, and from the said dam back again to the said Mill, as occasion required as they ought to have done and the said Plaintiff during all that time was deprived of the use benefit advantage of the said way, and was prevented and hindered from repairing or amending said race and the banks thereof whereby the said Mill became and was during all that time aforesaid idle and incapable of being worked by reason of the said race and its banks being broken down and out of repair, so that the water could not flow through it from the said dam, to the said Mill wherefore the Plaintiff lost all the benefit and profit which otherwise he would have had and made from the working of said Mill and the custom and trade thereof: that is to say at the County aforesaid. Whereby the said Plaintiff saith that he hath damage and is sure to the value of fifteen thousand dollars, and therefore he brings his suit &c.

G L. Dulany.
C N. Pitts.

And the said Charles Carroll McTavish by William H. Dorsey his Attorney Comes and defends the force and injury, when and where, and saith that he is not guilty of the said trespass in manner and form as the said Charles Carroll above against him hath Complained, and of this he puts himself upon the Country &c.

Whereupon for trying the issue aforesaid Command is given to the Sheriff of the County aforesaid that he Cause to Come before the Court here on the third Monday of September in the Year eighteen hundred fifty three, twelve &c, by whom &c and who neither &c, because as well &c, the same day is given to the parties aforesaid then and there &c. and now at this day to wit the said third Monday of September being the nineteenth day of the said month in the Year eighteen hundred and fifty three Come again into the County Court here the parties aforesaid by their Attornies aforesaid and thereupon for trying the issue aforesaid it is ordered by the Court here that twenty persons from the panel of petit jurors be drawn by ballot according to the act of assembly in such Case made and provided; and thereupon twenty persons being so drawn by ballot and written upon two lists, one of which said lists is delivered to the Counsel for the respective parties and the Counsel for each of the said parties having stricken out four persons from the said lists thereupon the remaining twelve persons being called Come to wit Edward A. Talbott, Freeborn G. Hipsley, George W. Warfield, Robert R. Howard, Charles G. Hasleup, John G. Northington, Levi Young, William A. Webb, Thomas T. Griffith, Thomas McCrea, John Fisher & J. P. James, who being empannelled and sworn to say the truth in the premises upon their oath do say that they find for the plaintiff and also the damages at twenty five dollars.

Memorandum. Before the Jurors aforesaid withdrew from the bar of the Court here, the said Charles Carroll McTavish by his attorney aforesaid files in Court here the following Bill of exceptions. To Wit:

Charles Carroll
vs
Charles C M Tavish

The Plaintiff in support of the issue joined on his part used to the jury the deed from Charles Carroll of Carrollton to him dated 28th of July 1832. it being admitted in order to dispense with the proof of the fact that the said Charles Carroll of Carrollton at the date of said deed owned was in possession of said premises Conveyed and also proved that the said Carroll died on the 14th day of November 1832, and upon his death the said Plaintiff entered into the possession of said premises and also read to the Jury the following letter from the Plaintiff to the Defendant which it is admitted was received by the Defendant at or shortly after the date thereof, on the same day to wit on the 24th day of September in the Year of our Lord 1853. the following Copy of deed and letter was filed, to wit:

This Indenture made this twenty eight day of July in the Year of Our Lord one thousand eight hundred and thirty two between Charles Carroll of Carrollton of the State of Maryland of the