the damages proved in this case then the plaintiff is not entitled to recover in this action damages for such injury so committed by Shock unless the Jury find from the evidence that the injury was committed by the stock of defendant and that there is no evidence before them from which the Jury can find that any damages and committed by the Stock of defendant, But the Court refused to grant the prayer. the defendant excepts and prayed the Court to sign and seal this Bill of Exception which is done this 17 day of March 1857

Peter W Crain Seal

Milburn vs Richardson

In this case the plaintiff to support the issues on his part joined by Thomas Mealey that the defendant Richardson moved away a fence between the plaintiff and himself in May and that Plaintiff had a fence in which at the time of said removal and that after the removal of said fence the cattle sheep and hogs of some of the persons in the Neighborhood entered the wheat field of plaintiff through the gap made by the removal of said fence and injured the crop of the plaintiff to the extent of twenty five bushels that they the aforesaid cattle entered the day after the removal and continued to trespass until harvest. No Evidence was given that any of the Stock of defendant entered through the said gap the Witness not knowing whose Stock they were, except on cross, upon all the aforegoing Evidence the defendant by his Counsel prayed the Court to instruct the Jury that if the Jury find from the aforesaid testimony that the defendant in this case moved the fence between the fields of the plaintiff and defendant in consequence of which removal Stock entered upon the farm and close of the plaintiff and committed the damage proved in this case that then the plaintiff is not entitled to recover in this action, damages for such injury so committed by Stock unless the Jury find from the evidence that the injury was committed by the Stock of defendant and that there is no Evidence before them which the Jury can find any damage was committed by the Stock of defendant.

But the Court refused to grant the prayer the defendant excepts and prayed the Court to sign and seal this Bill of Exception which is done the 17 March 1857.

Peter W Crain (Seal)

And afterwards to Wit on the 18 day of March 1857 the said defendant by his Attorney aforesaid prays an appeal from the Judgment so as aforesaid rendered to the next Court of Appeals to be held for the State of Maryland and to him it is granted Whereupon the said defendant by his Attorney aforesaid filed in said cause an appeal Bond of which the following is a copy to Wit.

Know all men by these presents that we James Richardson and James L Forwood of St Marys County and Robert S. Milburn of the City of Baltimore State aforesaid are held and firmly bound unto Elias Milburn or his Attorney Executors administrators or assigns in the sum of two hundred dollars current money to be paid to the said Elias Milburn or his Attorney Executors administrators or assigns to which payment

well and truly to be made and done we bind ourselves and each of us our and each of our Heirs Executors and administrators severally and severally firmly by these presents sealed with our seals and dated this 18 day of March in the year of our Lord 1857.

Whereas at a Circuit Court begun and held at Leonardtown for said Saint Marys County on the 3 Monday of March 1857 the above named Elias Milburn by the Judgment of the said Court recovered against the above Bound James Richardson of Saint Marys County as well the sum of five thousand dollars current money damages to be released on the payment of three Hundred dollars with interest from the 18 day of March 1857 be paid and seventy nine dollars Eighty three Cents for costs and charges by him about his suit in that behalf laid out and expended aforesaid the said James Richardson is aggrieved as of Record is manifest from which said Judgment the said James Richardson has prayed an appeal to the next Court of Appeals to be held for the State of Maryland. Now the Condition of the above obligation is such that if the above Bound James Richardson shall not cause a transcript of the Record and proceedings of the said Judgment to be transmitted to the Court of Appeals to be held at the City of Annapolis in the time required by law and prosecute the said appeal with effect and also satisfy and pay unto the said Elias Milburn his Executors administrators and assigns in case the said Judgment shall be affirmed as well the damages costs and charges adjudged by the Circuit Court aforesaid as also all costs and damages that shall be awarded by the Court of Appeals then this Bond to be void and to remain in full force and virtue otherwise to be of no effect

Signed sealed and delivered in presence of Joseph H Yates

James Richardson (Seal)
James L Forwood (Seal)
R S Milburn (Seal)

Which being read and heard and the securities in the said Bond being approved by the Clerk of the said Court this 18 day of March 1857 it is thereupon Ordered by the Court that the Record and proceedings aforesaid in the suit aforesaid with all things thereunto relating be transmitted to the said Court of Appeals to be held for the State of Maryland and the same is transmitted to the said Court according to

James T Blackistone Clk

St Marys County to Wit

I hereby certify that the aforegoing is a full and true transcript taken from the Record and proceedings of the Circuit Court for St Marys County in the cause therein mentioned

In testimony Whereof I have hereunto set my hand and affixed the seal of the Circuit Court of Saint Marys County this 30 day of May 1857.

(Seal)

James T Blackistone Clk
St Marys County Court
Maryland