The defendants, by their attorneys aforesaid, say, that their rejoinders to the seventh and eighth replication of the plaintiff, are good in substance.

Whereupon all and singular the premises being seen as to the fourth replication of the said plaintiff to the third plea of the said defendants, and to which said fourth replication the said defendants have demurred, it is considered by the Court here, that the said fourth replication of the said plaintiff to the third plea of the said defendants is good in substance in manner and form as the said plaintiff by his said fourth replication hath alleged.

And all and singular the premises being seen as to the rejoinders of the said defendants, to the seventh and eighth replications of the said plaintiff, and to which said rejoinders the said plaintiff hath demurred, it is considered by the Court here, that the said rejoinders of the said defendants to the said seventh and eighth replications of the said plaintiff are good in substance, in manner and form as the said defendants by their said rejoinders have alleged.

Whereupon, for trying the issues 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 the 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, came, to wit, James P. Maynigh, John S. Wolf, Martin Gessi, Joseph Wenner, John Fisher, John Petre, Lewis Hunt, George H. Brown, George V. Thomas, George Feidt, Lewis Schindel and John Hoffer, who being impannelled, and sworn to say the truth in the premises, upon their oath do say, that they find for the defendants on the issues joined; therefore, it is considered by the Court here, that the said plaintiff take nothing by his writ and declaration aforesaid, but be in mercy for his false clamor thereupon, and that the said defendants go thereof without day &c. It is also considered by the Court here, that the said defendants recover against the said plaintiff the sum of $129.75 by the Court here adjudged unto the said defendants, for their costs and charges by them sustained about their defence in this behalf laid out and expended, and that the said defendants have thereof execution &c.

Memorandum. Before the jurors aforesaid withdrew from the bar of the Court here, the said plaintiff, by his attorneys aforesaid, tendered to the Court here his Bills of Exceptions, and which were by the Court here signed & sealed, and which are in form following, to wit:

Robert Douglass vs The President, Managers & Company of the Boonsborough Turnpike Road Company	In the Circuit Court for Washington County November Term 1858

At the trial of this cause, the plaintiff to support the issues joined, on his part offered and read in evidence to the jury, a patent granted by the State of Maryland, for a tract of land called "Moreland" lying and being in Washington County.

And then proved, by legal and competent evidence, to the jury, that a large part of the said tract of land so granted as aforesaid, has been owned and possessed by the plaintiff in this cause, ever since the year 1849, up to the present time, he all the while residing on the same; and the said plaintiff also proved to the jury by competent evidence, that over and through the said part of the said tract of land called "Moreland" as aforesaid, owned and possessed by the plaintiff as aforesaid, a public county road ran, for a distance of over a mile; the said road being the same that leads from the town of Sharpsburg in Washington County, to the Potomac River opposite to Shepherdstown on the Virginia side of the said river; and the said plaintiff also proved to the jury by several competent witnesses that the said public county road running through and over the plaintiffs land as aforesaid, and nearly through the middle thereof on both sides of the said road, the whole distance thereof, as the same ran through the said plaintiffs farm from the one side thereof to the other, there were and have been for more than thirty years past, lines of fencing; and that fixed in the said fences at various points and places, leading from the said public road into the fields and woods of the said plaintiff, on his said farm, and into his barn situated near by the side of the said public road on the said farm of the plaintiff, being part of "Moreland" as aforesaid; and that the said gates and private ways leading as aforesaid, had been in existence and use for the purposes of the said farm ever since the making of the fences as aforesaid. And the said plaintiff also proved by legal and competent witnesses that the defendants commenced grading the said public road running as aforesaid, in the year 1853, beginning at the Town of Sharpsburg, and that they proceeded on to the River, and through the land of the plaintiff as aforesaid, and that the said defendants finished the grading of the said road either in the latter part of the Fall of the year 1854, or in the Spring of 1855; that part of the said road through the land of the plaintiff, being about the last that was so graded by the defendants; and that the defendants after they finished grading the said public road as aforesaid, erected a toll house &