December Term 1860

William Shipley
vs
John H. Caples

Be it Remembered that now here on the 1st Monday in December being the 5th day of the said Month in the year of our Lord 1859 the Judge of the Second Judicial Circuit of Maryland in pursuance of the directions of the act of Assembly in such case made and provided transmit to the Court of Appeals here the Record of proceedings of a cause which was lately depending before them in the Circuit Court for Anne Arundel County between John H. Caples defendant and William Shipley defendant and wherein the said Circuit Court passed a Decree for the said John H. Caples against the said William Shipley and from which said Decree the said William Shipley appealed to the Court of Appeals the tenor of which said Record of proceedings is in form following to Wit

Maryland Sct

At a Circuit Court of the second Judicial Circuit of the State of Maryland begun and held at the City of Annapolis in and for Anne Arundel County aforesaid sitting as a Court of Equity on the 3d Monday of April being the 18th day of the same Month in the year of our Lord 1859.

Present The Hon Andrew Bruce Judge
R. H. Freeman Clk

among other were had the following proceedings to Wit

John H. Caples
vs
William Shipley

Be it remembered that at the Court to Wit the 28 day of June 1859 came John H. Caples by James S. Franklin his solicitor in the Circuit Court for Anne Arundel County sitting as a Court of Equity and exhibited in said Court his Bill of Complaint against William Shipley in the words following to Wit

To the Honorable Andrew Bruce Judge of the Circuit Court for Anne Arundel County, sitting in Equity

The Bill of Complaint of John H. Caples of Anne Arundel County humbly shews to your Honor that he has for many years possessed and resided upon a farm situate in the 5th Election district of said County and about seven miles from the City of Baltimore which said farm he has cultivated principally as a stock farm and for the purpose raised thereon with the City of Baltimore that he has been for a period of much longer than 20 years and indeed for time immemorial a road running by the main of the old Town Road which diverges from the old Ridgely Landing County road and passes over and through the lands of John Featherwood thence through the orchard of Jacob Smith's land thence through the land of the Complainant thence through the land of Thomas Thicher thence through the lands of William Shipley to the land of William Sullivan thence through the land of the latter until it intersects the Old Annapolis and Baltimore Road which leads over Quigg's ferry to the City of Baltimore

Your Complainant further shews that he has been accustomed himself for the period of ten years and those under whom he claims and who occupied the farm which he now owns had been accustomed from time immemorial to use said Road and to have the free and uninterrupted right with their Horses carts wagons oxen and servants to and over the same and to have produce and other articles to and from the City of Baltimore without any interruption from or by the said William Shipley or any other party that the other parties mentioned in the said Deed and the whose lands the said Road goes have been deceased as running and other citizens residing in that neighborhood have also for a much longer period than 20 years had the free and uninterrupted use and enjoyment of said Road in travelling and bringing produce to and from the City of Baltimore and that said Road is a good the only outlet which your Complainant has whereby to convey his produce to said City for sale

And your Complainant further charges that neither the said William Shipley nor any of the other owners of the respective lands through which said Road passes have at any former time closed up or claimed any right to close up or alter said Road but that on the contrary in the only instances where said Road has been altered or changed they are alterations not affecting the convenience of your Complainant or other using the same and that the consent of the Father of the Complainant in the first instance was obtained by Elmer Sullivan Esq and of the Complainant himself by the said William Shipley when they made the alterations alluded to. And your Complainant further charges that about the Month of July in the year 1858 the said William Shipley not regarding the rights or convenience of your Complainant and others had dug up said Road through his premises and by erecting a strong fence across the same thus entirely preventing your Complainant and others entitled from using the same in any manner.

Your Complainant further charges that he was compelled by the stoppage of said Road to travel his produce to market by a much longer or circuitous and bad road by which he is greatly inconvenienced and subjected to much trouble or loss of time and money and that the value of his property is greatly depreciated thereby and further that the said Road which he is thus compelled to use passes through the lands of Charles over which he has no right of way except by the permission and that should this permission be at any time refused he has no present outlet from his farm and whereby to convey his produce to market. And your Complainant further charges that the said William Shipley although often requested so to do by your Complainant has altogether refused to remove said fence or to allow your Complainant to enjoy the use of said Road and still continues as aforesaid to obstruct the same

And your Complainant further charges that although he might have a remedy at Law against the said William Shipley by an action of damages incurred by reason of the fences and obstruction yet that he is informed that the same would be attended with great delay before it could be adjudicated and would also involve a multiplicity of suits upon the same cause of action and that he is entitled to relief in this Honorable Court where the matter of the Nature are properly cognizable. To the End therefore that the said obstruction may be removed and that your Complainant