

July Return Day 1911

Rachel A. Banks, Executrix of the Last Will and Testament of Emanuel Banks deceased.

Edw. L. Ward

Atty #5. Retained by attorney
Ck 7.80
Shf 1.30 Paid 4/17/14 by Atty
14.10
COR add .25
\$ 14.35

Box No. 759

16 (Damage) 229

Atty #5. Retained by Atty.
Ck 4.55 Paid 4/17/14 by Atty
9.55

Baltimore & Ohio Railroad Company a corporation,

Mayor and City Council of Baltimore City a corporation.

Duncan K. Brent

Edgar A. Prov

14 June

Petting filed. (Damages \$5000.00) (S. S. Hamburg St.)
Summoned Baltimore and Ohio Railroad Company, a corporation, by service on Custis H. Woolford, Secretary, and a copy of the process left with the defendant. Also notice of said summons left at the principal office of said corporation.
Also summoned Mayor and City Council of Baltimore City, a corporation, and a copy of the process left with the City Solicitor.
24th July 1911 War. Notice to plead and Election for a jury trial filed. Copy of War. Notice to plead and Election for a jury trial sent to the Sheriff to be served on the Defendants. Copy of the within Declaration, served on the Baltimore & Ohio Railroad Company, a Corporation, by service on Custis H. Woolford, Secretary, on the 25th day of July 1911, in the presence of Benjamin Weil.
7th Aug. 1911 Appearance by Attorney for Mayor and City Council of Baltimore, a body corporate, one of the Defendants. Rule Plea.
7th Aug. 1911 Demurred to the Declaration, on behalf of Mayor and City Council of Baltimore, a body corporate, one of the Defendants filed and issue joined (short) in demurrer.
15th Aug. 1911 Appearance by Attorney for Baltimore & Ohio Railroad Company, a corporation, one of the Defendants. Rule Plea.
15th Aug. 1911 Plea did not commit the wrongs alleged, on behalf of Baltimore & Ohio Railroad Company, a corporation, one of the Defendants, filed and issue joined (short) as to it.
11th June 1915 the Plaintiff asks leave in open Court to amend the Declaration. Same day. Leave of the Court (Judge Harlan) granted to file an Amended Declaration. 17th June 1915 Amended Declaration Notice to jury plead, and Election for a jury trial filed.
Do Page 433.

Edw. L. Ward

Atty 5. Paid by
Ck 12.00
Shf 14.40
Well 3.50
Reord 30.00 Paid 30.00
64.90
Si Fa 9.55
Si Fa (staff) 1.75
Add Ck 7.60
Atty 5. Paid by
Ck 8.90
Shf 1.40
Copies 14.30
4.00

Henry F. Walters
Annie S. Walters
Drawer No. 2

Appellants costs \$200.00
Add. Costs, Ct of App 1.60
July 1st 1913. Re July 2/13 - by Clerk No 539
June 19/1913 by E. L. Grand.
10th January 1913 Record made and sent to the January Term 1913 of the Court of Appeals of Maryland per Adams Express Company, per Adams Express Company.
Appellees costs \$85.75.

Duncan K. Brent

Edgar A. Prov

14 June

Petting filed. (Damages \$5000.00)
Summoned Baltimore and Ohio Railroad Company, a corporation, by service on Custis H. Woolford, Secretary, and a copy of the process left with the defendant. Also notice of said summons left at the principal office of said corporation.
Also summoned Mayor and City Council of Baltimore City, a corporation, and a copy of the process left with the City Solicitor.
24th July 1911 War. Notice to plead and Election for a jury trial filed. Copy of War. Notice to plead and Election for a jury trial sent to the Sheriff to be served on the Defendants. Copy of the within Declaration served on the Baltimore & Ohio Railroad Company, a Corporation, by service on Custis H. Woolford, Secretary, on the 25th day of July 1911 in the presence of Benjamin Weil.
7th Aug. 1911 Appearance by Attorney for Mayor and City Council of Baltimore, a body corporate, one of the Defendants. Rule Plea.
7th Aug 1911 Demurred to the Declaration, on behalf of the Mayor and City Council of Baltimore, a corporation, one of the Defendants filed and issue joined (short) in demurrer.
15th Aug. 1911 Appearance by Attorney for Baltimore & Ohio Railroad Company, a corporation, one of the Defendants. Rule Plea.
15th Aug. 1911 Plea did not commit the wrongs alleged, on behalf of Baltimore & Ohio Railroad Company, a corporation, one of the Defendants filed and issue joined (short) as to it.
20th January 1912 Demurred to the Declaration on behalf of the Mayor and City Council of Baltimore, a body corporate, one of the Defendants. "Overruled", with leave to the Defendants to plead jury within 30 days.
(Carried to Page 255)

Edw. L. Ward

Atty 5. Paid by E. L. W.
Ck 5.55
Shf 1.80 Paid by B. & O. R. R. Co. 3/26/15
\$ 12.35

Dora Pfeiffer
Elizabeth Lizzie Kennet

Same -
Dorothea Pfeiffer, also known as

Duncan K. Brent

Edgar A. Prov

14 June

(S. S. Hamburg St.)
Petting filed. (Damages \$4000.00)
Summoned Baltimore and Ohio Railroad Company, a corporation, by service on Custis H. Woolford, Secretary, and a copy of the process left with the defendant. Also notice of said summons left at the principal office of said corporation.
Also summoned Mayor and City Council of Baltimore City, a corporation and a copy of the process left with the City Solicitor.
24th July 1911 War. Notice to plead and Election for a jury trial filed. Copy of War. Notice to plead and Election for a jury trial sent to the Sheriff to be served on the Defendants. Copy of the within Declaration served on the Baltimore & Ohio Railroad Company, a Corporation, by service on Custis H. Woolford, Secretary, on the 25th day of July 1911, in the presence of Benjamin Weil.
7th Aug. 1911 Appearance by Attorney for Mayor and City Council of Baltimore, a body corporate, one of the Defendants. Rule Plea.
7th Aug. 1911 Demurred to the Declaration, on behalf of the Mayor and City Council of Baltimore, a body corporate, one of the Defendants filed and issue joined (short) in demurrer.
15th Aug. 1911 Appearance by Attorney for Baltimore & Ohio Railroad Company, a corporation, one of the Defendants. Rule Plea.
15th Aug. 1911 Plea did not commit the wrongs alleged, on behalf of the Baltimore & Ohio Railroad Company, a Corporation, one of the Defendants filed and issue joined (short) as to it.
11th June 1912 Motion by the Baltimore and Ohio Railroad Company, one of the Defendants, to be allowed to withdraw its plea, filed August 15th 1911 and in place thereof substitute a demurrer filed. Same day Order of Court granting leave filed.
(Carried to Page 425)

Edward L. Ward,

Henry F. Walters
and
Annie S. Walters.
Drawer No. 2

From Page 235 } 13th February 1912 Pleas 1, 2, and 3 on behalf of the Mayor and City Council of Baltimore, a body corporate, one of the Defendants filed. service admitted. rule replication.

2nd and 3rd Pleas filed by the Defendant the Mayor and City Council of Baltimore, and issue joined (short) in the Demurrer to the 2nd and 3rd Pleas, of the Defendant, the Mayor and City Council of Baltimore.

15th February 1912 grounds of Issue in the 1st Plea of the Defendant The Mayor and City Council of Baltimore, and Demurred to the 2nd and 3rd Pleas filed by the Defendant the Mayor and City Council of Baltimore, and issue joined (short) in the Demurrer to the 2nd and 3rd Pleas, of the Defendant, the Mayor and City Council of Baltimore.

16th February 1912 Motion by the Defendant, The Baltimore and Ohio Railroad Company, to withdraw its Plea heretofore filed in this case and to substitute in place thereof the Pleas herewith attached to this Petition filed. Same day Order of Court granting leave to the Defendant to withdraw its Plea heretofore filed and to substitute other Pleas in place thereof filed. service admitted.

16th February 1912 Pleas 1 and 2 on behalf of the Baltimore and Ohio Railroad Company, one of the Defendants filed. service admitted. rule replication. Same day Ordinance No. 387 filed.

17th February 1912 grounds of Issue in the 1st Plea and Demurred to the 2nd Plea filed by the Defendant, the Baltimore and Ohio Railroad Company filed and issue joined (short) in the Demurrer to the 2nd Plea filed by the Defendant the Baltimore and Ohio Railroad Company.

17th February 1912 grounds of Issue in the 1st Plea and Demurred to the 2nd Plea filed by the Defendant, the Baltimore and Ohio Railroad Company filed and issue joined (short) in the Demurrer to the 2nd Plea filed by the Defendant the Baltimore and Ohio Railroad Company.

Duncan K. Brent,

Baltimore & Ohio Railroad Company a corporation;

3rd March 1912 Demurred to the 2nd and 3rd Pleas of the Defendant, (The Mayor and City Council of Baltimore). Sustained and the Demurrer to the 2nd Plea filed by the Defendant (the Baltimore and Ohio Railroad Company). Sustained.

E. A. Pos,
S. S. Field,

Mayor and City Council of Baltimore a corporation.

7th March 1912 Petition of the Plaintiffs for leave to file an Amended Declaration by adding a Second Count to the Original Declaration filed herein, and leave of Court granted the Plaintiffs herein to file an Amended Declaration by adding a Second Count to the Original Declaration herein. Order of Court filed.

7th March 1912 Amended Declaration (Second Count) Notice to plead and Election for a Jury Trial filed. Same day 2 copies of the Amended Declaration (Second Count) sent to the Sheriff to be served (1 copy to be served on the B. & O. R. R. Co. and 1 copy to be served on the City Solicitor). Copy of Amended Declaration served on Duncan K. Brent, Attorney for the Baltimore & Ohio Railroad Company, on the 8th day of March 1912 in presence of Samuel J. Drwell. Also Copy of Amended Declaration served on Samuel S. Field, City Solicitor for Mayor and City Council of Baltimore, on the 9th day of March 1912 in presence of Cornelius B. Grant.

21st March 1912 Demurred to the 2nd Count of the Plaintiffs Amended Declaration, on behalf of the Mayor and City Council of Baltimore, one of the Defendants and issue joined (short) in the Demurrer.

20th March 1912 Demurred to the whole of the Plaintiffs Amended Declaration (on behalf of the Baltimore and Ohio Railroad Company, one of the Defendants) filed and issue joined (short) in the Demurrer as to it.

21st March 1912 Demurred to the 2nd Count of the Plaintiffs Amended Declaration, on behalf of the Mayor and City Council of Baltimore, one of the Defendants and issue joined (short) in the Demurrer.

20th April 1912 Demurred (short) in Open Court on behalf of all the Defendants to the whole Declaration and to each and every Count thereof and issue joined in the Demurrer.

20th April 1912 Demurred to the Declaration and to each and every Count thereof. Overruled with leave to the Defendants to plead within 15 days.

2nd May 1912 Pleas 1, 2, 3 and 4 to the Plaintiffs Amended Declaration and each Count thereof, and Notice to reply (on behalf of the Mayor and City Council of Baltimore, one of the Defendants) filed. service of copy admitted. rule replication.

6th May 1912 grounds of Issue in the 1st Plea filed by the Mayor and City Council of Baltimore, one of the Defendants, and Demurred to the 2nd 3rd and 4th Pleas of said Defendants, The Mayor and City Council of Baltimore, filed. service admitted, and issue joined (short) in the Demurrer.

6th May 1912 Pleas 1 and 2 to the 1st Count of the Amended Declaration and Pleas 1 and 2 to the 2nd Count of the Amended Declaration on behalf of the Baltimore and Ohio Railroad Company, one of the Defendants filed. service of copy admitted. rule replication.

7th May 1912 grounds of Issue upon the 1st Plea to the 1st and 2nd Counts of the Amended Declaration and Demurred to the 2nd Plea to the 1st and 2nd Counts of the Amended Declaration on behalf of the Baltimore and Ohio Railroad Company, a body corporate, one of the Defendants filed. service admitted, and issue joined (short) in the Demurrer to the 2nd Plea to the 1st and 2nd Counts of the Amended Declaration.

11th May 1912 Motion by the Mayor and City Council of Baltimore, one of the Defendants for leave to file Additional Pleas to the Amended Declaration filed. Same day Order of Court granting leave filed.

11th May 1912 Additional Pleas 5 and 6 to the 1st Count of the Plaintiffs Amended Declaration and Additional Pleas 7 and 8 to the 2nd Count of the Plaintiffs Amended Declaration and Notice to reply (on behalf of the Mayor and City Council of Baltimore, one of the Defendants) filed. service admitted. rule replication.

13th May 1912 grounds of Issue upon the 5th Plea to the 1st Count of the Amended Declaration, Demurred to the 6th Plea to the 1st Count of the Amended Declaration, grounds of Issue upon the 7th Plea to the 2nd Count of the Amended Declaration and Demurred to the 8th Plea to the 2nd Count of the Amended Declaration (on behalf of the Mayor and City Council of Baltimore) filed. service admitted and issue joined (short) in the Demurrer to the 6th Plea to the 1st Count of the Amended Declaration and issue joined (short) in the Demurrer to the 8th Plea to the 2nd Count of the Amended Declaration.

1st June 1912 Demurred to the 2nd Plea to the 1st and 2nd Counts of the Amended Declaration on behalf of the Baltimore & Ohio Railroad Company, one of the Defendants Sustained with leave to the (B. & O. R. Co.) to plead over within 5 days.

1st June 1912 Demurred to the 2nd Plea to the 1st and 2nd Counts of the Amended Declaration on behalf of the Baltimore & Ohio Railroad Company, one of the Defendants Sustained with leave to the (B. & O. R. Co.) to plead over within 5 days.

Edward L. Ward,

Henry P. Walters and
Annis S. Walters

From Page 255 } 1st June 1912 Demure to the 2nd 3rd and 4th
Plea, and Demure to the 6th Plea to the 1st

Count of the Amended Declaration, and Demure to the 8th Plea to the 2nd Count of the Amended Declaration, in behalf of the Mayor and City Council of Baltimore, one of the Defendants. Sustained with leave to the Defendant (the Mayor and City Council of Baltimore, one of the Defendants) to plead over within 5 days.

Drawer No. 2

7th June 1912 Plea did not commit the wrong alleged to the Amended Declaration (in behalf of the Baltimore and Ohio Railroad Company, one of the Defendants) filed and issue joined (lost) as to it.

13th July 1912 Plea did not commit the wrong alleged to the Amended Declaration (in behalf of the Mayor and City Council of Baltimore, one of the Defendants) and issue joined (lost) as to it.

15th November 1912 Notice from the Plaintiff to the Mayor and City Council of Baltimore one of the Defendants to produce at the trial all papers, contracts and agreements with the Baltimore & Ohio Railroad Company, and all Opinions, Statements, Plans and recommendations of B. F. Furdall, City Engineer during the years 1908, 1909, 1910 and 1911 filed. service admitted.

15th November 1912 Notice from the Plaintiff to the Baltimore & Ohio Railroad Company, one of the Defendants to produce at the trial all papers, contracts and agreements with the Mayor and City Council of Baltimore filed. service admitted.

2nd December 1912 Jury Sworn. Viz: John C. Kogg, Charles E. Tockwood, Ferdinand W. Kopp, John A. Bequell Hamilton B. Simonson, Charles A. Lloyd, Frank S. Jennings, Alex. Cook, James J. Leitchester, George C. Knick, Frank C. Barrington, Edward P. Burns.

Duncan H. Brent, Baltimore & Ohio Railroad Company a corporation;

E. A. Poz, Mayor and City Council of Baltimore a corporation.
S. S. Field,

5th December 1912

The Plaintiff asks leave in Open Court to amend the Declaration in the 20th line thereof after the words "Plaintiff aforesaid" by striking out the following words "and which concrete is all or abutment is erected and constructed upon and against the improvements and the lot of ground owned by the Plaintiff as aforesaid." And also to amend the Amended Declaration in the 26th line thereof after the words "constructed by the Defendants" by striking out the words "upon" and leave of Court granted the Plaintiff to make the amendments. Same day the Declaration and the Amended Declaration amended accordingly by striking out the words above mentioned.

5th December 1912 Defendants Motions Nos 1, 2, 3, 4, 5, 6 and 7, and City's Motions Nos 1, 2, 3, 4, 5, 6, 7, 8, and 9, to strike out testimony, offered at the close of the Plaintiff's case filed. Same day the Motions filed, and referred to above were not acted upon by the Court.

5th December 1912 Verdict in favor of the Defendants under the instructions granted by the Court.

5th December 1912 Judgment no Verdict given.

9th December 1912 Judgment on Verdict Absolute in favor of the Defendants for costs.

31st December 1912 Time for signing the Bills of Exceptions extended for a period of 20 days from the date of this Order. Petition of the Plaintiff, and Order of Court filed.

2nd January 1913 Appeal on behalf of the Plaintiff to the Court of Appeals of Maryland from the judgment rendered herein and Affidavit that the Appeal is not taken for the purpose of delay filed. 9th January 1913 Plaintiff's Bill of Exceptions filed.

Since docket No 4. Page 70.

Opinion of the Court of Appeals (Judge Stockbridge) Reversing the Judgment and Remanding the case for a New Trial, sent to be filed by the Appellants, by the Court of Appeals on the 8th day of May 1913. Certificate of the Clerk of the Court of Appeals filed 19th day of May 1913.

26th June 1913 Fi. Fa. issued against Baltimore & Ohio Railroad Company to July R.D. 1913 No. 20.

16th June 1913 Jury Sworn Viz: John L. Norwood, Charles W. Stockwell, John G. Mc. Rine, Michael G. Kitchington, Charles S. Parran, Thomas E. Curney, Augustus R. Westfield, Charles E. Krue, Fred Beecher, John Mc. Beck, Thomas E. Snyder, Charles L. Korb.

19th June 1913 Verdict in favor of the Plaintiff. Damages \$1,186.67.

19th June 1913 Judgment on Verdict given.

21st June 1913 Motion by the Baltimore and Ohio Railroad Company, a body corporate, one of the Defendants, for a New Trial. reasons filed.

21st June 1913 Motion by the Mayor and City Council of Baltimore, a body corporate, one of the Defendants for a New Trial. reasons filed.

26th June 1913 Fi. Fa. issued against Baltimore & Ohio Railroad Company to July R.D. 1913 No. 20. "Levied and Appraised as per Schedule herewith returned. The property levied upon in this case was also levied upon under a junior Fi. Fa. issued out of the Court of Appeals of Maryland, returnable to the Baltimore City Court, No. 21. Judiciale to July Return Day 1913. at the suit of these same Plaintiff against these same Defendants. 1913 July 1st. Fi. Fa. Satisfies of paid under protest as per notes of J. L. Bond, Jr., General Counsel of the Baltimore & Ohio Railroad Company herewith returned. 1st July 1913 Costs amounting to \$10.50 deposited in Court as per receipt of Clerk endorsed on the back of the within writ."

30th June 1913 Fi. Fa. with short copy of Judgment, for Costs in the Court of Appeals, received from Clerk of Court of Appeals and transmitted to Sheriff of Baltimore City, returnable to Baltimore City Court second Monday of July 1913.

"Levied and Appraised as per Schedule herewith returned. The property levied upon in this case was also levied upon under a Senior Fi. Fa. issued out of the Baltimore City Court at the suit of these same Plaintiff against these same Defendants. No. 20 Judiciale to July Return Day 1913. 1st July 1913. Fi. Fa. Satisfies of paid under protest as per notes of J. L. Bond, Jr., General Counsel of the Baltimore & Ohio Railroad Company herewith returned. 1st July 1913 Costs amounting to \$203.40 deposited in Court as per receipt of Clerk endorsed on the back of the within writ."

2nd July 1913 Check of George Carey Lindsay, Clerk of the Baltimore City Court for \$201.65 in payment of Appellants Costs and Appellants Costs off Fi. Fa. sent to Cash. C. Magruder, Clerk of the Court of Appeals of Maryland, at Annapolis Maryland per mail

Carried to Page 260

x 5th December 1912 and thereupon by consent of Counsel all pleadings and docket entries to the Original Plea and the Amended Declaration and Court Order were considered as applying to the Plea and Court Order, as amended by leave of the Court, during the trial.

Edward L. Ward,

Henry F. Walters, and
Annex D. Walters,

Drawer No. 2

10th July 1913 Time for signing and filing Bills of Exception in above case in behalf of the Baltimore and Ohio Railroad Company, a body corporate, one of the Defendants extended up to and including 30 days after the final action of the Court on the Motion for New Trial heretofore filed by the Defendant, the Baltimore and Ohio Railroad Company. Order of Court (Judge Stump) filed.

Carried From Page 259 } 8th July 1913 Time for signing and filing Bills of Exception in above case on behalf of the Mayor and City Council of Baltimore one of the Defendants, extended for the period of 30 days from the date of this final determination of the Motion for a New Trial filed by the Mayor and City Council of Baltimore, Petition of the Defendant. The Mayor and City Council of Baltimore and Order of Court (Judge Stump) filed.

13 August 1913 Orders of Mayor and City Council of Baltimore and Baltimore and Ohio Railroad Company filed together this day, dismissing their respective Motions for New Trials.

13 August 1913 Judgment on the Verdict made absolute in favor of the Plaintiffs for the sum of \$1186.67 with interest from date until paid and Costs of suit.

14 August 1913 Fi. Fa. issued to Dept. RD. 1913 No. 27.

Levied and appraised as per schedule herewith returned.

1913 August 15th, Fi. Fa. satisfied and paid under protest as per notice of H. L. Bond, Jr., General Counsel of the Baltimore and Ohio Railroad Company, herewith returned.

1913 August 16th, Debt \$1186.67 Interest \$0.40 Court

costs \$3.80 amounting in all to \$1200.77 deposited in Court, as per receipt of Clerk, according to the tenor of said notice.

Duncan H. Brent,

Baltimore and Ohio
Railroad Company
a corporation

Mayor and City Council
of Baltimore
a corporation

C. A. Post
S. S. Field,

Paid by Check No 1556
on Natl. Marine Bank

Baltimore, Aug. 18, 1913
Received of Geo. Cam Lind
Cash the sum of Eleven Hun-
dred and Eighty-seven dol-
lars and seven cents, being
the amount of Judgment
and interest for which
Execution was issued on
August 14, 1913

\$1187.07
Edward L. Bond
att'y for plaintiffs.