

NO. 8361. Equity.

3. That they deny all and singular the allegations contained in Paragraph Three of said Bill; except that they admit that the parcel of land, mentioned in Exhibit No. 1, filed in this cause, was conveyed to the Plaintiff in Exchange for a parcel of land conveyed by the Plaintiff to the Defendant William A. Sappington by deed dated May 30th 1887.

4. That they deny that the wrongfully tore down the fence as described and charged in the Fourth Paragraph of said Bill; and as to the other allegations of said Paragraph they neither admit nor deny them, but they demand full proof thereof.

5. That they deny all singular the allegations contained in Paragraph Five of said Bill; or will or shall set forth in Paragraphs Six and Seven; and aver that they are denied that the Court is without jurisdiction to grant the relief sought by the Bill, of which more hereafter.

6. That they admit that in an action tried in the Circuit Court for Frederick County, at the September Term 1908, wherein the parties were the same as those in this suit, a verdict was rendered in favor of the Plaintiff and against the Defendants for the sum of \$10.00 in which judgment was duly entered; but that they deny that the right of the Plaintiff to the maintenance of the division fence, mentioned in the Bill, was either involved or determined; on the contrary, their Defendants declare that the said action was merely an action of trespass *q. c. f.*, wherein the only question involved was the guilt of the defendants - whether they or either of them had committed a trespass upon the land of the Plaintiff, in tearing down a wire fence situated on the land of the Plaintiff, at right angles with the fence now in dispute, and the effect of the judgment therein only concluded this fact and in no way did or could establish the line or the location of the portion of the land now controverted.

7. That they deny all and singular the allegations contained in Paragraph; and for answer thereto to the statements made in the preceding paragraph.

8. Answering further and more fully the said Bill of Complaint than Defendants say that the fence mentioned and described in the Bill, is located and was purposely erected upon the land of the defendant William A. Sappington to Mitchell. Exhibit No. 1. since it encroaches upon the land of said defendant at one point as much as 2 1/2 feet, that said Plaintiff