

This section applies where live stock are astray upon the track, and not where horses are caught in a trestle, and the injury is inflicted while the servants of the owner are present endeavoring to release the animals. *Northern Central Ry. Co. v. Green*, 112 Md. 499; *Annapolis, etc., R. R. Co. v. Pumphrey*, 72 Md. 87.

This section applied in a suit for the negligent killing of stock. Effect and operation of this section. *Northern Central Ry. Co. v. Ward*, 63 Md. 367; *Norfolk, etc., R. R. Co. v. Smith*, 104 Md. 74; *Western Md. R. R. Co. v. Carter*, 59 Md. 308; *Keech v. Baltimore, etc., R. R. Co.*, 17 Md. 45; *B. & O. R. R. Co. v. Lamborn*, 12 Md. 261. And see *B. & O. R. R. Co. v. Mulligan*, 45 Md. 493.

This section applied in a suit for damages resulting from a fire communicated by the defendant's engine. *Green Ridge R. R. Co. v. Brinkman*, 64 Md. 60; *B. & O. R. R. Co. v. Shipley*, 39 Md. 254.

Generally.

This section is to be construed in reference to the principles of the common law. By this section, it was not intended to interfere with the time tables of the railroad company, or to limit the rate of speed for trains. Proper prayers. *Keech v. Baltimore, etc., R. R. Co.*, 17 Md. 45.

A fire is occasioned by an engine, if it originates from coals thrown from it along the side of the road by those having charge of it when in use. *B. & O. R. R. Co. v. Dorsey*, 37 Md. 23. And see *Annapolis, etc., Co. v. Gantt*, 39 Md. 141; *Philadelphia, etc., R. R. Co. v. Constable*, 39 Md. 157.

The words "without negligence," defined. *B. & O. R. R. Co. v. Shipley*, 39 Md. 254; *Baltimore, etc., R. R. Co. v. Woodruff*, 4 Md. 256. And see *Northern Central Ry. Co. v. Green*, 112 Md. 500.

This section does not alter the doctrine of the common law as to contributory negligence. *Northern Central Ry. Co. v. Green*, 112 Md. 499; *Western Md. R. R. Co. v. Carter*, 59 Md. 308; *Keech v. Baltimore, etc., R. R. Co.*, 17 Md. 45; *B. & O. R. R. Co. v. Lamborn*, 12 Md. 261. And see *B. & O. R. R. Co. v. Mulligan*, 45 Md. 493.

This section referred to in discussing the burden of proof in a suit under article 67, "Negligence Causing Death." *Tucker v. State*, use *Johnson*, 89 Md. 490 (dissenting opinion).

Cited but not construed in *State v. Baltimore, etc., Co.*, 13 Md. 189.

1904, art. 23, sec. 288. 1888, art. 23, sec. 199. 1860, art. 77, sec. 2.
1838, ch. 244, sec. 1.

308. The damages caused by such injuries may be sued for and recovered by the owner of such stock, or the person injured by fire, before a justice of the peace, when the damages claimed shall not be over one hundred dollars, and in the circuit court for the county or the courts having civil jurisdiction over the amount claimed in the city of Baltimore, when the amount claimed exceeds one hundred dollars.

A mortgagor, being the substantial owner, may sue for injuries to property under this section. *Annapolis, etc., R. R. Co. v. Gantt*, 39 Md. 141; *Arnd v. Amling*, 53 Md. 200.

Ibid. sec. 289. 1888, art. 23, sec. 200. 1860, art. 77, sec. 3.
1838, ch. 244, sec. 2.

309. The damages claimed under section 307 of this article, shall be sued for in the county or city where the injuries shall have been done; and a summons served upon the president or any of the directors or conductors of any of said companies shall be considered proper service upon the corporation; provided, said service shall be made at least twenty days before the return day of the writ.

This section referred to in deciding that a turnpike company might be sued in the country where its road is located, where its operations are carried on and where it exercises its corporate powers, although its principal office is elsewhere. *Baltimore, etc., Turnpike Co. v. Crowther*, 63 Md. 572.