

Damage Award Is Upheld

December 11, 1968

The Montana Supreme Court Tuesday upheld a trial jury's award of \$9,650 to Richard Wilson in his suit for 1965 assault damages against Clifford Gehring.

Wilson filed the action in Lewis and Clark County District Court after he was shot and wounded while cutting a fence to enter his property along the Stemple Pas road between Helena and Lincoln.

Wilson testified that to get to his property he had to cross land owned by Gehring, who had refused permission for such crossing.

The unanimous opinion by Chief Justice James T. Harrison said Wilson had gained access to his property through a gate in Gehring's fence.

When Wilson found the gate locked on Aug. 18, 1965, he cut the fence nearby. The cut was spliced the next day by Gehring and two other men who, the testimony showed, then waited and hit when they heard Wilson's truck. The shooting began when Wilson started to reopen the fence.

In his appeal, Gehring contended the damages were excessive, the evidence was not sufficient to justify the verdict and errors of law occurred in the trial.

The high court disagreed, saying at one point, "the evidence disclosed three bushwhackers preparing for the ambush of what the defendant considered to be a squatter."

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