

been what is equivalent to it. The plaintiff has his land, it is true, but he has been deprived of the profits growing out of its tenure, and that by an act of this corporation. He is injured in one of his rights for the benefit of the inhabitants. The injury is then clearly within the spirit of the provisions and principles above stated; and he is entitled to redress in the courts of justice, which are expressly instituted to redress injuries. The corporation has inflicted injury, and for its own benefit; it can sue and be sued, and is amenable, like every individual, for any wrong which it has inflicted. I am satisfied that the legislature never meant to exempt them in such case from liability, for they have at all times themselves been vigilant in securing the rights of individuals.

But as there has been no corruption, malice, or misbehavior, it is contended there exists no responsibility. And the case is attempted to be assimilated to that of a judge or other officer of government who does an injury, in the fair exercise of his judgment, through mistake. But the judge or other officer is not acting for his own benefit, and the injury which through his errors he may inflict affects him in no manner beneficially. It would therefore be cruel and unjust to make such officer of the government answerable. But where an officer derives a certain benefit by law from his own acts which he is empowered to exercise for his own advantage, I cannot imagine a reason which ought to exempt him from a suit, for the injuries by which he is benefited and which he himself inflicts. The inhabitants of Baltimore have done this act for their own benefit. If the injury be the necessary and natural consequence of their act, they ought to give redress.

It must be admitted as a general rule, that he who acts lawfully cannot be answerable for any injury which he inflicts; but to enforce the principles of the constitution, which considers private property as sacred, it may be necessary to consider that so far as the law violates this right it is inoperative, and will not bar a suit.

Some of the preceding doctrines appear to be confirmed by one of the judicial tribunals of the states, whose authority has been always greatly respected. I refer to 12 Mass. R. 466, *Stevens v. Middlesex Canal*, where the court say, if the legislature should for public convenience and advantage authorize any improvement, the execution of which would require or produce the destruction or diminution of private property, without af-