

the ruin is immense; Craig's property, as a wharf, has really no value; "I would not buy it for any thing," because, though it will do for small craft, yet no small craft ever come there, and large vessels cannot come; it is also filling up continually: the mounds threw the water entirely into a different channel, and occasioned vast ruin to private property.

The plaintiff further offered in evidence by Col. Thomas Tenant, that the plaintiff's property might now sell for \$18,000 or \$20,000, and if it had good water, it might, even at this time, bring \$26,000. "It is difficult, however, to say; I may have overrated the plaintiff's property at this day, at \$18,000, for if the deposits continue, the property must become wholly worthless, as wharf property, for it fills up rapidly;" that, in going through these new paved streets, you find at this time, that even the curb stones are often covered with sand and earth, and you would not know that they were paved. The waters that flowed naturally into the western cove was nine-tenths more than what tended to the east; and it is by the diversion of these waters down Ann street, Washington street, and others, that the injury has been principally done: that the water in that cove suffered by a wharf erected in 1807 or 1808, by James and Joseph Biays, along the south side of Alisanna street, and to the east of Washington street, that said wharf extended from Washington to County street, that it was badly made, and bursted out in front on several occasions, and the earth and gravel from it washed into the cove, and contributed to injure the depth of the water of said cove; that the earth and gravel aforesaid were washed down into the cove by the waters flowing down Washington street and Alisanna street, but mainly by the waters coming down Washington street.

The plaintiff further offered in evidence by William Price, that the plaintiff's water used to be twenty feet deep, that vessels of any burthen might load there, but that now only small craft, owing partly to a bar that runs along the wharf at some distance. That if the injury continues, this water lot can be of no value, any more than for the land, which would be a few hundred dollars; that small craft do not come to that part of Fell's point at all, and large ones always go to the wharves where the water is good, and a water of depth for small craft is of no use as far as wharfage is concerned. During the embargo, witness received, for wharfage alone, at the rate of fourteen thousand dollars a year, but the plaintiff's wharf is wholly forsaken, except for repairing small vessels and shipbuilding. The deposits from County street is very small, and bears no proportion to the others; it did not create the injury complained of: after every rain you can see, by the color of the water, where the mud and earth came from Washington street.

The plaintiff further offered in evidence by Jacob Dunham, that, about nine or ten years ago, the ship Franklin, drawing about seventeen feet water, laid always at plaintiff's wharf, and many other large vessels, but none have been there for many years past. In 1811, several considerable vessels lay at Dawson's wharf, where it is now dry land; Dawson's is short distance from plaintiff's, there being several narrow lots between. In witness's opinion, the mounds erected at the intersection of several streets designated on the plots, occasioned the whole injury, by diverting all the waters to the eastern instead of the western cove. Witness thinks that the filling up of the plaintiff's water has nothing to do with any deposits coming down from County street; the mud and earth coming at Q Q is the only source worth mentioning. That the washing from the east of Argyle alley comes down Lancaster street, and empties into the cove immediately

north of the plaintiff's wharf, and the sediments has been dug out by the city at that place three times in the last seven or eight years.

The plaintiff further offered in evidence by Ephraim Smith, on his second examination, that he had known the western cove for forty years; that, in his opinion, it would have taken an immense time (if ever) to fill up the cove, if all the waters had been permitted to flow naturally there. The town navigation could never have been materially injured; for the chief injury which that navigation has received is from the deposits left by Jones's falls. Witness always thought that the whole of the waters complained of could have been carried down Harford run canal into the western cove, and so the commissioners also admitted, though there was some difficulty on account of George street, formerly Smith street; witness was of this opinion at all times, though his own property would have been somewhat injured, as it lies in that direction, but this was the natural course of the water, and there he thought it ought and might have been permitted to continue. That after German street was paved, the waters divided themselves naturally into four parts, one fourth might be said to run into the eastern cove, one-fourth down Market street, and one-half into the western cove, but afterwards the whole was diverted into the eastern cove. Turning the water down Ann street injured the health of the Point, and occasioned (in his opinion) the great epidemic in 1819. Witness is not a physician: witness thinks the whole of the waters might have been suffered to flow in the western cove, even with advantage.

And the plaintiff further offered evidence by Ephraim Smith, that Bond street was paved before German street, and in such a way as to be adapted to carry the water, now turned down Ann street, along Smith and German streets, both into Harford run, and that after the paving of German street the water might have been carried back nearly into its original natural course, without altering any of the established grades of the streets; and that the water might have been carried down Ann street to its intersection with Smith street, and thence, after raising Smith street to its proper established grade along Smith street, into the Harford run, and that it might have been done without raising Ann street, or altering the established grade of Dulany street or Ann street, and that this the witness thinks may or could be done at the present day.

And the plaintiff further offered in evidence by said Smith, that the navigation between the town and Point is not injured by the wash of Harford run, and could not be so by any wash down that run, but that it is injured by the wash from Jones's falls, which is much further west.

The defendants, to support the issue on their part, then offered in evidence to the jury an act of the General Assembly of Maryland, passed at November session, 1782, entitled "An act for the more effectual paving of the streets of Baltimore town, in Baltimore county, and for other purposes;" an act of the General Assembly of Maryland, passed at April session, 1784, entitled "An act appointing wardens for the port of Baltimore, in Baltimore county;" also, another act of the General Assembly of Maryland, passed at November session, 1796, entitled "An act to erect Baltimore town, in Baltimore county, into a city, and to incorporate the inhabitants thereof;" also, another act of the General Assembly of Maryland, passed at November session, 1797, entitled "A supplement to the act entitled an act to erect Baltimore town, in Baltimore county, into a city, and to incorporate the inhabitants thereof;" also, another act of the General Assembly