being the property of the State and the Defendants being the agents of the State, clothed with discretionary powers with regard to the preservation of the navigation of the harbour, the defendants are not liable in this action for the consequences resulting from their acts as complained of in the declaration, and stated in the evidence. Fourth, Because if any wrong has been done in filling up the bore, it is a public nuisance, and the Plaintiff upon the evidence above stated has not sustained such an injury as will so entitle him to maintain an action. 2d. Prayer, The Defendants also prayed the opinion and direction of the Court to the Jury, that in grading and paving the several streets, and damming and turning the water at the several places marked on the plat and stated in the evidence the officers, servants and agents of the Mayor and City Council of Baltimore acted within the scope of their lawful authority, and if the Jury find from the evidence that they acted and did, and to the best of their judgment, then the personal action cannot be maintained against the said Corporation for any thing done by their said officers, servants or agents, in manner aforesaid, which opinion and direction the Court refused to give to the Jury, but were of opinion and so directed the Jury, that the Plaintiff will be entitled to a verdict, if the Jury believe from the testimony that the Plaintiff's property was injured by the washings occasioned by the diversion of the waters from flowing into the western bore & turning them into the eastern bore & into damages proceeding from such a source as the Counsel for the Plaintiff have admitted that they are not entitled & do not claim damages on account of that portion of the injury which may have been sustained by the washings from sewer of the waters into the Eastern bore as would naturally have flowed there, notwithstanding by the grading & cutting down of Washington and other streets, the waters which naturally flowed into the eastern bore carried down more sand & sediment than before said gradings & cuttings they had been accustomed to do. And when the Jury ascertain the lessened value of the Plaintiff's property by the injury done to the property as a wharf, or, in other words, the amount of its depreciation in value, proceeding from that cause, & when they also ascertain the losses sustained by the Plaintiff by the diminished income or profits of his property proceeding from such cause, these amounts when ascertained together with any damages the Jury may reasonably think the Plaintiff may be entitled to, from any inconvenience he may have sustained by being compelled to cease the employment of his property will constitute the true measure of damages. That in ascertaining these amounts they must confine themselves to a consideration of the injury sustained prior to the 21st of March 1822 the day of issuing the writ. That in the estimation of the damages it is fair & proper that the Jury should take into consideration the uses to which the property has been devoted since the infliction of the injury & in estimating its permanent injury, its rights and proper trade the jury should look to its capacity & of course its value for other purposes, as it will be only