

4 *The Constitution: That Delicate Balance*

their cargo holds swollen with coffee from South American plantations, would tie up to wooden wharves jutting out from the land. The coffee would be off-loaded into adjoining four-story warehouses, warehouses that also held cotton which the ships would carry away to northern mills to be spun into cloth. This was a profitable and highly competitive business, with only one indisputable requirement: a deep-water location and serviceable dock. Craig and Barron's dock was one of the few in Baltimore that could accommodate vessels of four and five hundred tons "drawing upwards of seventeen feet of water."²

Today, Craig and Barron's warehouse is, of course, gone, but its location can still be seen on the aged maps that decorate the entrance to the Baltimore Historical Society. And from those maps the problem becomes evident. Craig and Barron had decided to locate their shipping operation at the foot of Aliceanna Street on the point. This location gave them access to the markets and placed them on the eastern extremity of the point. It also placed them closest to the mainland—probably out of the sweep of the more powerful currents of the Patapsco River, but, unfortunately, in the way of runoff from the city itself.

The boom that allowed Fell's Point to expand so quickly also had its impact on the city of Baltimore. Building went on continually and construction meant excavation; the excavation combined with the rain and the swollen streams of Baltimore County meant vast amounts of silt-laden runoff pouring into the Patapsco River, and settling, as it turned out, beneath the docks of traders like Craig and Barron. Just two years after the purchase, the wharf was under siege from silt and mud. Fearing for their business, the owners decided to fight city hall—a decision that led ultimately to the first real test of the Bill of Rights. The question was whether Baltimore could deprive Craig and Barron of their property without due process and without just compensation.

THE LEGAL BATTLE BEGINS

In 1817 Hezekiah Waters and ten other enraged wharf owners, including Barron and Craig, wrote to the city charging that "Our Wharves are likely to be filled up and ruined by reason of the large torrent or collection of rain Water which descends from Washington Street directly to the front of Our Wharves. . . . [F]or within one year last past, many parts of Our Wharves have been filled up with sand and dirt from four to six feet. We apprehend, and fear, that if the City Commissioners continue digging ditches to alter the Water Course . . . that Our Wharves will be useless to us, and intirely ruined."³ The wharf owners then requested that the sand and dirt be dredged at the expense of the city.

But the city of Baltimore turned a deaf ear to the businessmen, and the paving of streets, dam building, and regrading continued. By 1822 Barron and Craig had endured all they could and hired a lawyer, Charles

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