

The bill further states, that by virtue of this contract with these plaintiffs, and of their compliance therewith, a right accrued to each of them to demand and receive wharfage for any vessel which should lie at, or property which should be landed upon the wharves made by them respectively; which right will continue to belong to each of them until the reserved privilege of filling up the canal, and the whole space shall be exercised; which has not yet been done; that so soon as the work was completed these plaintiffs severally exercised their right to charge wharfage; and continued to receive it, without molestation, from the year 1795 until some time in the year 1799; that after these defendants, as a body politic, created by the Act of 1796, ch. 68, had succeeded to the rights of the commissioners of Baltimore Town, they took upon themselves to collect wharfage on those wharves, and have collected a large amount, and altogether prevented these plaintiffs from collecting any thing on that account. Whereupon these plaintiffs prayed, that they might have an account of the wharfage so illegally received by the defendants; that they might be quieted in their rights, and have such other relief as the nature of their case might require.

In the copy of the answer, made by The Mayor and City Council of Baltimore, to the original bill, which seems to have been filed in April, 1807, and which it had been agreed should be received as an answer to this new bill, it was admitted, that the land called Market space was vested in the commissioners of Baltimore Town; that the plaintiffs were the owners of the grounds immediately adjacent; that they entered into the contract with the commissioners; that they accordingly filled up the space and made the canal and wharves as stated; which, however, they did not finally complete until some time in the year 1797. And it was further admitted, that these defendants, having succeeded to the rights of the commissioners of Baltimore Town, and being the sole owners of the wharves at the head and sides of the canal, have collected, as they were legally warranted in doing, a large amount of money for wharfage from various persons for the use of those wharves. These defendants deny the right of the plaintiffs to collect wharfage, the claim to which they never made until the * exhibition of their bill; and these defendants aver, that, **365** although it may be, that they have expended large sums of money in complying with their contract; yet that the filling up of the ground, and making the canal, has very considerably increased the value of the property belonging to them. These defendants aver, that the wharves, made as described, were always considered as public wharves belonging to the City of Baltimore; and as such, wharfage was collected for the use of them, in like manner as for the use of other public wharves; and they aver, that the plaintiffs had collected the wharfage on those wharves, as commis-