

and he is hereby authorized and directed to continue to collect, receive, account for, and pay over the same according to the directions, authority, and power vested in him by the said plaintiffs. And he is hereby directed and required to make out and keep a separate and distinct account of the moneys so collected and received by him; and to make return thereof to this Court on oath when required, to the end, that the same may be retained or paid according as the right thereto shall be made to appear. *Palmer v. Vaughan*, 3 *Swan*. 173.

To this bill the defendant put in his answer, on the 17th of July, 1830, in which he admitted all that was set forth in relation to the formation of the wharves, the passing of the ordinances; and the plaintiffs pretending to have a well-founded claim; but he denied the right of the plaintiffs to make such collections; and averred, that their doing so was in violation of his previously vested rights; that he, as the owner of a lot of ground, binding on the tide-water, and on Market space, had legally extended the fast land of his lot, along Market space into the water by filling it up as far as the line established by the port wardens; and thereby had acquired a complete legal title to the land thus gained from **368** \* the tide, and being so entitled to it, all the appurtenant and incidental benefits and advantages thereof accrued to him as its owner; that having, under his contract with the commissioners of Baltimore Town, at an enormous expense filled up the grounds and made the wharves in that part of Market space binding on his lot so extended, a right accrued to him in consideration thereof to demand and receive wharfage on those wharves, of which he could not be deprived by these plaintiffs so long as they permitted the canal and wharves to remain.

The plaintiffs having put in a general replication to this answer, a commission was issued and testimony taken and returned, from which it appeared, that at time wharfage had been collected by Dugan, and at other times by the city authorities. After the return of the commission with the testimony, the parties filed the following agreement in relation to these three cases.

“The above bills being cross bills and concerning the same subject-matter, it is agreed, that they be all set down for final hearing together; and that the testimony taken or admitted in either case be considered and received as testimony in all of the above cases. That the agreement and compromise with the McElderrys made by The Mayor and City Council be filed as evidence in the cases; and that further proof after a decree is passed in these cases may be taken by either party before the auditor in order to shew the amount of wharfage received by either party on the wharfage in question.”