

File No. 7969 Continued.

OPINION.

LAW DEPARTMENT.

Baltimore, May 7th, 1908.

Hon. W. Cabell Bruce,  
City Solicitor.

Dear Sir:-

6133

I have considered the letter of the Harbor Engineer, dated May 5th, 1908, in reference to the bulkhead of William Becker and Company.

Section 88 of the City Charter provides that "the Harbor Board shall have charge of the harbor, walls and navigable waters in and adjacent to the City of Baltimore". The Harbor Engineer states that it is absolutely necessary, both, for the protection of the public health, and for the furtherance of the interests of the shippers, that the Bush street channel be dredged. Under these circumstances, the Harbor Board has the right to cause the dredging to be done, and if it be done in a careful and skillful manner, no liability would attach to the City.

6134

If the bulkhead may be considered as a wharf, it is the duty of William Becker and Company to put their property in such condition as to make it safe. Section 12 of Article 13 of the Code of 1906 provides, as follows: "And to require all private wharves that are decayed or defective, or from any other cause likely to be injurious to navigation or to health, to be rebuilt or repaired within a reasonable time, to be prescribed in a written notice, (not less than thirty days) to be served on the agent, owner or occupier of such wharf, and the owners of lots binding on or running to the harbor, shall cause the same to be secured in such manner as the Harbor Board may think proper, so that no injury can result therefrom to navigation or to health, and if the owner is a minor, or cannot be found, it shall be the duty of the Harbor Board to have the wharf or lot secured at the expense of the owner, to be recovered by the Mayor and City Council of Baltimore in due course of law; any person who fails to comply with the requirements of this section shall pay a fine of ten dollars for every day of non-compliance".

6135

If the Harbor Engineer treat the bulkhead as a wharf, he should give notice as provided for in said Section 12 of Article 13, and if the repairs are not made, then steps should be taken to have the penalty for violation thereof imposed upon Becker and Company.

If, however, the bulkhead cannot be considered to be a wharf,