File No. 8841 Continued. OPINION.

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In a city situated on navigable water, nothing is of more importance than the privilege of constructing wharves or piers for the benefit and promotion of commerce. Accordingly, by the Act of 1745, Chapter 9, Section 10, confirmed by the Act of 1784, Chapter 39, Section 6, the owners of lots upon the water of the harbor of Baltimore, were authorized to extend or improve such lots out into the water, in the manner and to the limit described by the City authorities. Dugan v. Baltimore, 5 G. & J. 367; Wilson v. Inloes, 11 G. & J. 351; Casey v. Inloes, 1 Gill, 432; R. R. Co. v. Chase, 43 Md., 23; Baltimore v St. Agnes Hospital, 48 Md. 419. It is of equal importance that such improvements should be made at the ends of streets extending to the water. Where the City is owner in fee of such streets the right of making such improvements belongs to it as owner or proprietor under the Act of 1745. But where such street has been condemned or dedicated to the public use as a highway, it is contended by the appellant, that the City has no authority to improve the same by the construction of a wharf or pier; because the exercise of such a power is supposed to be inconsistent with the use of the same as a highway. In this view we do not concur".

Whether or not authority to construct wharves embraces authority to construct a Recreation Pier seems to me to be doubtful.

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It appears to be well settled, however, that the City alone has the right to construct improvements at the ends of public streets:

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McKim, 3 Bland, page 453.

and if the City has the right to construct improvements at the ends of public streets, no person or corporation, other than the City, is likely, in my judgment, to acquire any interest in the improvements so made.

In the case of the Tome Institute vs. Davis, 87 Md., 591, it appeared that land had been extended into the Susquehanna River by the owner of a lease for ninety-nine years, renewable forever. The Court held that the lessee, having had absolute control of the property, was the proprietor authorized to make such extension, and therefore acquired title to the land so made, in fee simple. In the course of the opinion the Court said:

"Nowland held a perpetual leasehold in the lots thirty and thirty-one. By virtue of this leasehold he had the absolute control and management of the property, and the entire beneficial interest in it subject to his obligation to pay rent to the reversioner. He was the 'proprietor' of these lots within the meaning of the Act of 1824; and had by virtue of that act the right to acquire land below high water by making extensions into the Susquehanna River. The fast land which he should make in this way would belong to himself. His right to it was derived from the bounty of the Legislature which permitted him to acquire land for himself by his own labor, or by the expenditure of his own means. No portion of it ever at any time belonged to the reversioner, or was ever