

File No. 8841 Continued.

OPINION.

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in his possession, actually or potentially. As the reversioner never had any interest or title to this land, nor any possession of it, he, of course, never conveyed, nor assumed to convey either title or possession to the lessees or their assignees. Nowland held title and possession which were in all respects independent of the reversioner. By force of the Act of Assembly, he owned it because of his proprietorship of the land bordering on the shore line. That was his title to it. It may not be in all respects entirely accurate to say that he held it by the same title, by which he held the original lots. That is, the quantity of estate was not the same. Yet he had a right to this land because he was the proprietor of the original lots. That proprietorship was the origin and support of his right. Lord Coke says: 'Titulus est justa causa possidendi id quod nostrum est'. In other words, title is the right whereby we hold our own. The right by which he held the land formed by extension into the river was given by the title which he held to the original lots. In this sense only can it be said that these different properties were held by the same title. It will be seen that we think that Nowland validly conveyed a fee simple to White in eighteen hundred and thirty-seven".

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I conclude from the foregoing that it would be decidedly preferable to have legislative authority in advance for construction of a Recreation Pier at the end of Fell street; that the City may have authority to construct such a pier, but its authority to do so is not beyond doubt, but, that if such an improvement should be constructed, it is not likely that anybody, other than the Mayor and City Council of Baltimore, would have any interest in same.

I beg to suggest also, that it will be necessary to have an ordinance, authorizing the construction of such a pier, before the structures can be erected.

Very truly yours,

(Signed) Joseph S. Goldsmith,  
Assistant City Solicitor.

File No. 8841.

LAW DEPARTMENT.

Baltimore, April 12th, 1909.

Board of Park Commissioners,  
City.

Gentlemen:-

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Replying to your favor of October 9th, 1908, relative to the establishment of a recreation pier at the foot of Fell street, I herewith enclose report to me on the subject from Mr. Goldsmith. You will perceive from the report that the questions under