

File No. 20032, continued.

This is a broad, sweeping and all-inclusive exemption from liability by reason or on account of any right or control the said Mayor and City Council of Baltimore may have of or in the Patapsco River or its tributaries, or either of them. There is but one exception to this total exclusion of liability on the part of the Mayor and City Council of Baltimore, and that is in reference to "docks and wharves OWNED by the Mayor and City Council of Baltimore".

In other words, the Mayor and City Council of Baltimore are not liable for any injury or damage of any kind to either person or property in any part of said river, or of said tributaries or branches, or either of them", except where some injury or damage occurs in connection with the "docks or wharves owned by the Mayor and City Council of Baltimore"; and that is to say, an injury or damage that occurs in connection with the property in which the Mayor and City Council of Baltimore have a proprietary interest.

In the instant case, the Mayor and City Council of Baltimore have no property interest in the dock or wharves, and, having no property interest therein, the Mayor and City Council of Baltimore can have no liability on account thereof.

The general rule is that the State, in conferring powers and imposing obligations on municipalities, may limit both the powers and the obligations as it sees fit.

Forad Co. vs. State, 219 Fed. 835.

As neither the docks nor wharves belong to the Mayor and City Council of Baltimore, and as the said Mayor and City Council have not actually participated in the creation of said public nuisance, no liability rests upon the said Mayor and City Council to relieve the said condition by the removal of the deposits of debris and refuse matter. Therefore, the property owners having riparian rights will have to look to the actual creator or creators of said public nuisance for relief.

The property owners undoubtedly have an action against them, and should, by any possibility, the said property owners obtain a judgment against the Mayor and City Council of Baltimore in this connection, by a forced construction of said Sub-section 8 of Article 6, or otherwise, the Mayor and City Council of Baltimore would have