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File No. 20686, continued.

and not because it was a public highway.

Miller's case.

Therefore, I am of the opinion that under our Charter the City can only charge for a franchise where it owns the land, and the two bodies of water which I mentioned are within the boundaries of Baltimore City and it is a duty to charge a franchise for the use of the land under water. I do not think that under the case of Classen vs. Chesapeake Guano Company, 81 Md. 267, a charge can be made where the permission has been granted and wharf constructed thereunder.

The title of the Mayor and City Council of Baltimore in and to its water front, water bed, landings, wharves, docks, highways, avenues, streets, lanes, alleys and parks is declared to be inalienable.

City Charter 1915, Sec. 7, page 54.

In the report of the Charter Commission to the General Assembly of Maryland, January 25, 1898, in presenting the new charter for adoption the following report was made.

"All franchises or rights in the highways of the City are to be sold under the supervision of the Board of Estimates. Under no circumstances can the City divert itself of the right or power to regulate the exercise of the franchise or right granted."

Section 37 of the City Charter declares that before any grant can be made by the Mayor and City Council of Baltimore of the franchise or the right to use any street, avenue, alley or highway or the grant of the franchise or the right of the use of any public property mentioned in Section 7, this Article, shall be provided by ordinance, etc.

Section 38 gives the Harbor Board charge of the harbor, wharves and navigable waters, including bridges over same in and adjacent to the City of Baltimore.

Under Section 10 of Article 13 of the Code of 1906, the pier-head line of 1900 was established for the Patapsco river by the Act of the Secretary of War, and the lines inside the pier-head line in portions of the harbor shown on plats numbered from one to five signed by the Mayor and the Harbor Board under Ordinance 116 of 1894, were declared to be the limiting lines beyond which no extension was to be made.