

wharf area so that the “water was rendered so shallow that it ceased to be useful for vessels.” As a result, they not only suffered from a loss of income, but their property ceased to possess any substantial value as a wharf.<sup>3</sup>

Barron believed that the damages caused to his property entitled him to compensation. In 1822, he filed suit against “The Mayor and City Council of Baltimore;” contending that these damages occurred during the exercise of that bodies “corporate authority.” At trial, Barron’s attorneys<sup>4</sup> gave evidence showing the natural course of the streams and the subsequent embankments constructed in order to divert the natural watercourses. They argued that the evil caused by these civic improvements was progressive in that with each heavy rain these streams carried “large masses of sand and earth” from the hills around Baltimore into the are of the wharf. Accordingly, they posited that because Barron’s property right extended simultaneously to the land and the water consisting of the wharf, he was entitled for compensation for his losses resulting from the exercise of the state’s eminent domain powers. Advocating for Barron, attorney Charles Hoffman explained that “the Social Compact, the highest of all powers require[d] that in such cases . . . a fair compensation should be made.” Citing such legal theorist as Grotius, Pufendorf, and Livy, Hoffman explained that “the right of eminent domain can only be exercised by the most despotic Governments upon occasions of great public emergency, and for the public good, and upon making just compensation.” He also

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<sup>3</sup> 7 Peters 243-244.

<sup>4</sup> Charles F. Mayer, David Hoffman, and Peter [Holeruse?]. *Judgements*, 3.