

*Mayor and City Council* to have the right to make such an ordinance, it could not lawfully be evaded by passing over goods on planks, skids, or even in drays or carts, so as not to touch or be landed on the wharves.

The ordinance of March 21st, 1814, does not appear to be contrary to the prohibition contained in the act of Assembly of 1813, ch. 118, inasmuch as the wharfage on vessels lying at the public wharves is not mentioned in the latter, and the rates or duties are different in their kind.

On the first part of the bill respecting the rights of the parties no further opinion is expressed than as to the ostensible right of the complainants, which is sufficient to sustain the application for an injunction.

It is therefore *Ordered*, that an injunction be issued prohibiting *The Mayor and City Council*, their officers, agents, and servants from collecting any rates or wharfage, or other tax, charge, or duty in virtue of the first part of the second section of the ordinance of March 25th, 1815, in the bill mentioned and referred to, by which part of the said ordinance, rates were directed to be charged and collected on certain articles landed on any public wharf, that is to say, on the public wharves in the bill mentioned, made by *Thomas McElderry*, deceased, and *Cumberland Dugan*.

The defendants on the 1st of March, 1830, put in their answer to this last bill, in which they admit the truth of all that is said in relation to the making of the wharves; but deny, that the plaintiffs have any title to the ground so filled up by them, or any right to collect wharfage on the wharves they had so made. These defendants aver, that the act of 1813, ch. 118, does not apply to wharves of the description of these; but only to those which are properly public and free wharves; that these wharves are exclusively the property of the corporation, public only for the use of the inhabitants; that since the service of the injunction on these defendants, they had entered into an agreement with the plaintiff *Dugan*, according to which they have continued to collect wharfage on the west side of the canal; and that the other plaintiffs have, for a long time, ceased to consider themselves interested in this cause.

On the 1st of March, 1830, *The Mayor and City Council of Baltimore*, filed their bill here against *Cumberland Dugan*, in which they set forth all the circumstances as admitted or averred