



TIERNAN
V
THE MAYOR OF BALTIMORE
SUPREME COURT OF THE UNITED STATES
32 U.S. 243
February 16, 1833

This case was instituted...to recover damages for injuries to the wharf-property of [Craig and Barron who owned a] highly productive wharf in...Baltimore, enjoying...the deepest water in the harbour. The city, in the asserted exercise of its corporate authority over the harbour [and health] of Baltimore, [constructed new grades of streets, and, in doing so, diverted streams of water from their natural course purposely intending them to drain] to the wharf in question. These streams...carried down with them...large masses of sand and earth, which they deposited along [and in front of the wharf] of the plaintiff....The water was rendered so shallow that it ceased to be useful for vessels...[A loss of income and value as a wharf was alleged]. [Baltimore lost in the trial court in the amount of \$4,500 and the court of appeals reversed that judgment. From this judgment the landowners appeal].



Chief Justice John Marshall:...We are of opinion that the provision in the fifth amendment...declaring that private property shall not be taken for public use without just compensation, is intended solely as a limitation on the exercise of power by the government of the United States, and is not applicable to the legislation of the states. We are therefore of opinion that there is no repugnancy between the several acts of the general assembly of Maryland...and the constitution of the United States. This court, therefore, has no jurisdiction of the cause; and it is dismissed.

The 14th Amendment had not yet been ratified and the *Tiernan* Court did not interpret the 5th Amendment “eminent domain” provisions as applying to State, County or any other governmental unit except the Feds.