Browne v. Kennedy, 5 H & J 195 (1821)

Appeal from Baltimore County Court

See also MSA SC 5339-41-18

It is stated as part of the case, that the stream of Jones's Falls was diverted by cutting a channel with the consent of the owners of the land on Jones's Falls, in the year 1786, through which canal the waters have since flowed. It is also stated, that until the year 1786 the common tides flowed up Jones's Falls to C D, marked on the plot, and that until 1786 boats frequently and regularly ascended Jones's Falls to C D, but never went up higher. It is also stated, that after the making of said canal the old bed of the stream, between the points where it was intersected by the canal, was gradually filled up by the washing of the adjacent lands, by the persons under whom the defendant claims, and by the improvements made in the neighborhood, and that the bed of the river hath wholly disappeared. The question is now to be considered--Whether the lessors of the plaintiff, claiming under Alexander Lawson, are entitled to the land to the middle bed of Jones's Falls, from the lines of the land conveyed to Alexander Lawson binding on the Falls, or what part thereof?

Appellate court materials -

COURT OF APPEALS (Docket, Western Shore) Browne v. Kennedy, 1821, June Term, case no. 4, MdHR 604 [MSA S414-7, 1/66/14/25]

COURT OF APPEALS (Judgments, Western Shore) Browne v. Kennedy, 1821, June Term, case no. 4, MdHR 683-28 [MSA S382-13, 1/62/6/28]

COURT OF APPEALS (Judgment Record, Western Shore) Browne v. Kennedy, 1821, June Term, case no. 4, Liber TH 19, p. 340, MdHR 345 [MSA S420-16, 1/66/11/27]

Trial Court Records:

Unable to locate; probably in BA County Court, County Civil Docket, 1817, Sept. Term. Use Judgments instead.

Searched for lower court materials in CE19; no records found

Dugan v. Mayor and City Council of Baltimore, 1 G & J 357 (1833)

Appeal from Baltimore County Court

OVERVIEW: The lot owner, along with another deceased owner, owned lots fronting the water. Through an agreement with city commissioners, the two owners extended a market space in the water to a channel. The two owners had been collecting wharfage on the extended wharf until the mayor and the city council prevented them from collecting such fees and began collecting them on behalf of the city. The chancery court enjoined both parties from receiving any wharfage. The court first dismissed the bills against the mayor and council, dissolving the injunction against them and holding that the commissioners never gave a right of domain in the wharves and canal to be constructed to the lot owners. Their attempt to charge wharfage, therefore, was a violation of the spirit and meaning of the condition imposed by the commissioners, which declared that the canal, wharves, and streets on each side of the canal was to be a common highway and free for public use. The court then reversed the judgment as to the injunction against the mayor, holding that because the city was bound to cleanse the canal and to regulate and repair the wharves, the wharfage was the natural fund to defray the expenditure.

Appellate Court Records:

COURT OF APPEALS (Docket, Western Shore) Dugan v. Mayor and City Council of Baltimore, 1833, December Term, case nos. 34 and 35, MdHR 620 [MSA S414-12, 1/66/14/30]

Unable to locate judgments or lower court material. Possibly in the BA Court, City Civil Docket, 1832, which is MIA. Searched MSA CE19, no records found.

Washington & Baltimore Turnpike Road v. B&O Rail Road Co., 10 G & J 392 (1839)

Appeal from Baltimore County Court

OVERVIEW: The corporate owner of the turnpike road alleged that the construction of a railroad upon the turnpike constituted a trespass. The trial court ruled in favor of the railroad company. On appeal, the court affirmed. The court accepted the railroad company's argument that the terms of the turnpike company's charter did not restrict the legislature in the exercise of eminent domain or vest in the corporate owner the exclusive right to use the road as claimed. The court held that the plain meaning of the terms of the charter allowed for construction of the railroad, and the terms had no peculiar or legal meaning.

Appellate court materials -

COURT OF APPEALS (Docket, Western Shore) Washington & Baltimore Turnpike Road v. B&O Rail Road Co., 1839, December Term, case no. 106, MdHR 622 [MSA 414-14, 1/66/14/32]

COURT OF APPEALS (Judgments, Western Shore) Washington & Baltimore Turnpike Road v. B&O Rail Road Co., 1839, December Term, case no. 106, MdHR 683-491 [MSA S382-188, 1/63/7/41]

Trial Court Records:

BA Court, September Term, 1839? Unable to locate, use judgments instead. Searched MSA SC19, no records found.

Kane v. Mayor & City Council of Baltimore, 15 Md. 240 (1860)

Appeal from Baltimore City Superior Court

OVERVIEW: Pursuant to 1853 Md. Laws 376, the Mayor and the City Council were authorized to contract with property owners to hold any land that they deemed necessary for the purpose of conveying water into the city. The original landowner was given damages as a result of the taking and use of his property. After the original landowner became insolvent, the buyer purchased the property at a public auction, subject to the right of the Mayor and the City Council to their use of the pure water. He then filed the motion seeking to enjoin the Mayor and the City Council from interfering with the use of his mill, which had not interfered with the use by the Mayor and the City Council of the pure water. Pursuant to Md. Const. art. III, § 46, the city was not permitted to take any property except for a public use. The court held that because the buyer's use of the mill water had not interfered with the use of the pure water as acquired by the Mayor and the City Council, they were not permitted to interfere with the buyer's use. The court reversed the order of the superior court and continued the injunction issued against the Mayor and the City Council.

Appellate Court Records:

COURT OF APPEALS (Docket) Kane v. Mayor and City Council of Baltimore, 1859, December Term, case no. 186, p. 166, MdHR 633 [MSA S412-7, 1/66/14/38]

COURT OF APPEALS (Judgment Record) Kane v. Mayor and City Council of Baltimore, 1859, December Term, case no. 186, Liber WAS 3, p. 443, MdHR 362 [MSA S422-24, 1/66/11/44]

Trial Court Records:

BALTIMORE CITY SUPERIOR COURT (Chancery Docket) Kane v. Mayor & City Council of Baltimore, 1858, p. 164, MdHR 19,973-11 [MSA C166-3, 2/15/9/10]

BALTIMORE CITY SUPERIOR COURT (Chancery Papers) Kane v. Mayor & City Council of Baltimore, 1858, C533, MdHR 40,200-5557-1/5 [MSA C168-1170, 2/16/6/46]

Scanned as msaref 5458-51-4107 [in progress]

Baltimore and Potomac Railroad Company v. Reaney, 42 Md. 117 (1875)

Appeal from Baltimore City Court of Common Pleas

OVERVIEW: The railroad's excavation work for the tunnel disturbed the natural support of the corner house on the site, and the homeowner's house was dependent on the corner house for its stability. The railroad contended that the trial court's instruction failed to refer to the authority pursuant to which the railroad was acting and omitted the question of negligence in connection with the construction of the tunnel, thereby depriving it of any valid defense. The court held that the railroad was liable if its negligence caused the injury to the house. Further, the court found that there was redress for any damage to private property which resulted even though the railroad, a private corporation, had obtained authority for the project from the mayor and city council of Baltimore, which authority was ratified by in 1879 Md. Laws 80. Finally, the court determined that the railroad's excavation work was the proximate cause of the homeowner's injury. The excavation caused a disturbance in the foundation of the corner house, and by reason of that house's close connection with the homeowner's property, the injury done to the homeowner's property was imputed to the first cause, the excavation work.

Appellate Court Records:

COURT OF APPEALS (Docket) Reaney v. Baltimore and Potomac Railroad Company, 1874, October Term, case no. 49, MdHR 636 [MSA S412-10, 1/66/14/41]

COURT OF APPEALS (Briefs) Reaney v. Baltimore and Potomac Railroad Company, 1874, October Term, case no. 49, MdHR 723-71 [MSA S375-83, 1/64/12/7]

No judgments, misc. papers, opinion

Trial Court Records:

BALTIMORE CITY COURT OF COMMON PLEAS (Cases Instituted) Reaney v. Baltimore and Potomac Railroad Company, 1873, p. 134 [MSA T511-20, 3/2/10/20].

BALTIMORE CITY COURT OF COMMON PLEAS (Court Papers) Reaney v. Baltimore and Potomac Railroad Company, 1873,
Papers should be in either box no. 349 [MSA T508-46, 3/1/10/4] or in box no. 350 [MSA T508-47, 3/1/10/5]

Mayor & City Council of Baltimore v. Radecke, 49 Md. 217 (1878)

Appeal from Baltimore City Circuit Court

OVERVIEW: Pursuant to the Ordinance, the city council gave the business owner permission to install a steam engine in his business with the provision that he would be required to remove the engine after six months' notice from the mayor or be subject to a penalty if he failed to remove it. The owner refused to remove the engine after receiving notice, appellants brought an action before a justice of the peace to enforce the penalty, and the owner brought a successful action in the circuit court to enjoin appellants from prosecuting their action. The court affirmed the circuit court's order and ruled that the Ordinance was void because it gave the mayor unfettered discretion to enforce or decline to enforce the Ordinance as he saw fit. A stationary steam engine, such as the owner's, was not a nuisance even if it was erected and used in the midst of the city, unless it interfered with the safety or convenience of the public. Appellants' only complaint against the owner's engine was that it posed an explosion risk, as did all steam engines, and that its use involved the placement of combustible materials in dangerous proximity to the engine's boiler fire, which raised the risk of a fire.

Appellate Court Records:

COURT OF APPEALS (Docket) Radecke v. Mayor & City Council of Baltimore, 1878, April Term, case no. 24, MdHR 636 [MSA S412-10, 1/66/14/41]

COURT OF APPEALS (Opinions) Radecke v. Mayor & City Council of Baltimore, 1878, April Term, case no. 24, MdHR 707-67 [MSA S393-53, 1/65/12/95]

No briefs, judgments, misc papers.

Trial court materials:

BALTIMORE CITY CIRCUIT COURT (Equity Docket A) Radecke v. Mayor & City Council of Baltimore, 1874, Liber 14, p. 69 [MSA T55-14, 3/3/14/42]

BALTIMORE CITY CIRCUIT COURT (Equity Papers A) Radecke v. Mayor & City Council of Baltimore, 1874, box no. 638 [MSA T53-684, 3/12/6/50]

Scanned as msaref 5458-51-4113 [in progress]; see also 5458-48-849

Garitee v. Mayor & City Council of Baltimore, 53 Md. 422 (1880)

Appeal from Baltimore City Superior Court

OVERVIEW: The property owner's land fronted on the river, a tidal navigable stream, near the city, and he had a brickyard and a wharf at which vessels of considerable size loaded and unloaded before the obstructions occurred. The city contended that 1872 Md. Laws 246 gave it authority to widen and deepen the ship channel leading into the river and to keep the channel in proper condition in width and depth. The court noted that the Act did not refer to previous legislation, rejecting the notion that it repealed a previous statute, and stating that the Act conferred additional power in affirmative terms. The court held that the city and its contractor acted without authority, violating Md. Code Pub. Loc. Laws, art. 4, § 794, and creating a public nuisance. The court opined that the property owner had a claim for the effect of deposits into the river on his riparian rights, an injury not suffered by other members of the public. The court observed that Md. Code Pub. Loc. Laws, art. 4, § 795, did not provide redress for private injuries, and the common law remedy the property owner chose was unaffected. The court concluded that the case should have gone to the jury; a directed verdict was error.

Appellate Court Records:

COURT OF APPEALS (Docket) Garitee v. Mayor & City Council of Baltimore, 1879, October Term, no. 74, MdHR 636 [MSA S412-10, 1/66/14/41]

COURT OF APPEALS (Opinions) Garitee v. Mayor & City Council of Baltimore, 1879, October Term, no. 74, MdHR 707-74 [MSA S393-6, 1/65/13/6]

COURT OF APPEALS (Briefs) Garitee v. Mayor & City Council of Baltimore, 1879, October Term, no. 74, MdHR 723-85 [MSA S375-112, 1/64/12/41]

COURT OF APPEALS (Judgments) Garitee v. Mayor & City Council of Baltimore, 1879, October Term, no. 74, MdHR 683-182 [MSA S381-121, 1/62/10/2]

Trial Court Records:

BALTIMORE CITY SUPERIOR COURT (Cases Instituted) Garitee v. Mayor & City Council of Baltimore, 1877, p. 245, "drawer R no. 4," MdHR 50,336-27 [MSA C1497-28, 2/16/11/13]

BALTIMORE CITY SUPERIOR COURT (Court Papers) Garitee v. Mayor & City Council of Baltimore, 1877, "drawer R no. 4," box no. 39 [MSA T51-36, 2/20/7/9]. Note: seems only to be transcripts.

Retrial:

BALTIMORE CITY SUPERIOR COURT (Cases Instituted) Garitee v. Mayor & City Council of Baltimore, 1880, p. 203, "box 627," MdHR 50,336-29 [MSA C1497-30, 2/17/11/15]

BALTIMORE CITY SUPERIOR COURT (Civil Papers) Garitee v. Mayor & City Council of Baltimore, 1880, "box 627," box no. 435 [MSA T583-60, 2/26/9/11] --**Wrong papers; not sure where correct ones are.**

Scanned as msaref 5458-51-41080 [in progress]

Woodyear v. Schaefer, 57 Md. 1 (1881)

Appeal from Baltimore County Circuit Court

OVERVIEW: The question or the court on appeal was whether a court in equity was allowed to intervene to stop the slaughterhouse owner from committing the acts, which constituted such an inconsiderable part of the wrong complained of, and which if stopped, would leave the mill owner still suffering from almost as great a grievance as he was subject to. The right of a riparian owner to have the water of a stream come to him in its natural purity, or in the condition in which he has been in the habit of using it for the purposes of his domestic use or of his business, was well recognized. The court on appeal held that it was no answer to a complaint of nuisance that a great many others were committing similar acts of nuisance upon the stream. Each and every one was liable to a separate action and to be restrained. Each wrongdoer's action standing alone might amount to little or nothing. But it was when all were united together, and contributed to a common result, that they became important as factors, in producing the mischief of which was complained. An injunction was a proper remedy.

Appellate Court Records:

COURT OF APPEALS (Docket) Woodyear v. Schaefer, 1881, April Term, case no. 118, p. 111, MdHR 637 [MSA S412-11, 1/66/14/42]

COURT OF APPEALS (Opinions) Woodyear v. Schaefer, 1881, April Term, case no. 118, MdHR 707-79 [MSA S393-65, 1/65/13/11]

Trial Court Records:

BALTIMORE COUNTY CIRCUIT COURT(Equity Docket) Woodyear v. Schaefer, Volume JB 7, pp. 226 and 250, Case no. 4335, MdHR 20,227-7 [MSA C326-7, 2/49/8/6]

BALTIMORE COUNTY CIRCUIT COURT(Equity Papers) Woodyear v. Schaefer, Box 733 Case no. 4335 [MSA T696-62, 0/35/6/9]

Scanned as msaref 5458-51-4111 [in progress].

Susquehanna Fertilizer Co. of Baltimore City v. Malone, 73 Md. 268, 20 A. 900 (1890)

Appeal from Baltimore County Circuit Court

OVERVIEW: The fertilizer factory manufactured sulfuric acid and various fertilizers. The operator alleged that the factory was there and in operation before the property owner constructed the houses and hotel on the five lots that he owned. The court affirmed and held as follows: (1) in the eye of the law, no place could be convenient for the carrying on of a business which was a nuisance, and which caused substantial injury to the property of another; (2) the use of the land was not reasonable where it deprived an adjoining owner of the lawful use and enjoyment of his property; (3) in actions of this kind, the question whether the place where the trade or business was carried on, was a proper and convenient place for the purpose, or whether the use by the operator of his own land was, under the circumstances, a reasonable use, were questions which ought not to be submitted to the finding of the jury; and (4) the fact that the property owner "came to the nuisance" was no defense to the action.

Appellate Court Records:

COURT OF APPEALS (Docket) Susquehanna Fertilizer Co. of Baltimore City v. Malone, 1890, October Term, case no. 49, MdHR 638 [MSA S412-12, 1/66/14/43]

(Opinions) Susquehanna Fertilizer Co. of Baltimore City v. Malone, 1890, October Term, case no. 49, MdHR 707-107 [MSA S393-93, 1/65/13/39]

(Judgments) Susquehanna Fertilizer Co. of Baltimore City v. Malone, 1890, October Term, case no. 49, MdHR 683-436 [MSA S381-287, 1/63/06/31]

No Records and Briefs for this case at MSA?

Trial Court Records:

BALTIMORE COUNTY CIRCUIT COURT (Civil Docket) Malone v. Susquehanna Fertilizer Co. of Baltimore City, Liber JWS 17, MdHR 20,222-16 [MSA C358-16, 2/48/14/16]

Civil Papers from BA CC are very incomplete for this time period.

Mayor & City Council of Baltimore v. Fairfield Improvement Co., 87 Md. 352, 39 A. 1081 (1898)

Appeal from Baltimore City Circuit Court

OVERVIEW: The company purchased land near a parcel of city-owned property that at one time had been used as a place of quarantine for individuals suffering from contagious diseases. After the company began developing its land, the city proposed to place a woman who was suffering from leprosy in a facility on the city-owned property. The company filed an action seeking to enjoin the city from placing the woman there. The trial court granted the company's request for injunctive relief. The court affirmed, finding that the company was entitled to an injunction because the woman's presence on the property would have constituted a nuisance and would have substantially lessened the value of the company's land. The court noted that it was within the city's police power to operate a facility to care for individuals with contagious diseases and that the company could not object to the placement if the city had continued to use the property for the operation of such a facility. However, the court found that the city had abandoned that use of the property and that it could not restore the former use to the detriment of surrounding owners.

Appellate Court Records:

COURT OF APPEALS (Docket) Mayor & City Council of Baltimore v. Fairfield Improvement Co., 1898, January Term, case no. 61, p. 13, MdHR 640 [MSA S412-14, 1/66/14/45]

COURT OF APPEALS (Opinions) Mayor & City Council of Baltimore v. Fairfield Improvement Co., 1898, January Term, case no. 61, MdHR 707-131 [MSA S393-117, 1/65/13/63]

COURT OF APPEALS (Records and Briefs) Mayor & City Council of Baltimore v. Fairfield Improvement Co., 1898, January Term, vol. 4 [MSA S1733-XXX, 1/65/1/xx]

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT (Equity Docket A) Fairfield Improvement Co. v. Mayor and City Council of Baltimore, 1897, Liber 37A, p. 162 [MSA T55-37, 3/4/1/20]

BALTIMORE CITY CIRCUIT COURT (Equity Papers A) Fairfield Improvement Co. v. Mayor and City Council of Baltimore, 1897 [MSA T53-281, 3/12/2/9]

Scanned as msaref 5458-51-4112 [in progress].

Mayor & City Council of Baltimore v. Day, 89 Md. 551, 43 A. 798 (1899)

Appeal from Baltimore County Circuit Court

OVERVIEW: The condemnors acquired by condemnation and purchase the right to use, as part of its water supply, the water of a river. The riparian proprietor was an owner on the river. The riparian proprietor filed a bill against the condemnors alleging that the condemnors acquired from a large number of riparian owners the right to use so much of the water of a stream as would flow through a conduit of the capacity of flow of a certain number of gallons per day, and that the condemnors failed to acquire by contract or condemnation any rights whatever in the stream of water belonging to the riparian proprietor until a certain date, when a deed was executed. The riparian proprietor also alleged that the condemnation constituted a blot on his title, and he sought the removal thereof. The condemnors' demurrer was overruled. The condemnors appealed. On review, the court reversed because the sale of water by the condemnors to the inhabitants of a county was not illegal. In addition, the court reasoned that the words in the deed could not be construed as a condition subsequent or as a limitation upon the right of the city to use the water in any way it may be authorized by statute to use.

Appellate Court Records:

COURT OF APPEALS (Docket) Mayor & City Council of Baltimore v. Day, 1899, April Term, case no. 42, p. 102, MdHR 640 [MSA S412-14, 1/66/14/45]

(Opinions) Mayor & City Council of Baltimore v. Day, 1899, April Term, case no. 42, MdHR 707-134 [MSA S393-120, 1/65/13/66]

(Records and Briefs) Mayor & City Council of Baltimore v. Day, 1899, April Term, case no. 37—Not at MSA

Trial Court Records:

BALTIMORE COUNTY CIRCUIT COURT (Equity Docket) Day v. Mayor and City Council of Baltimore, Volume 14 page 249, Case no. 8266, MdHR 20,227-14 [MSA C326-14, 2/49/8/13]

BALTIMORE COUNTY CIRCUIT COURT (Equity Papers) Day v. Mayor and City Council of Baltimore, box no. 803, case no. 8266 [MSA T696-133, 0/35/7/39]

See also: BALTIMORE COUNTY CIRCUIT COURT (Civil Docket) Day v. Mayor and City Council of Baltimore, Volume 19 page 350, case no. 2571 and page 209, case no. 2025 [MSA C358-18, 2/48/14/18]

Roland Park Co. v. Hull, 92 Md. 301, 48 A. 366 (1901)

Appeal from Baltimore County Circuit Court

OVERVIEW: The principal ground relied upon by the developer in its bill to restrain the suit at law was the alleged fact that defendants sold the developer the land used by him as a disposal field for his subdivision and knew the exact purpose for which the land was purchased. The developer claimed that defendants were equitably estopped from claiming any damage for a nuisance, which made it impossible for defendants to sell their land or the lots, by reason of its maintenance. The court noted that the developer's defense was based upon an equitable estoppel. If the facts constituted an estoppel, they could be set up by way of defense at law as in equity. In order to justify a resort to a court of equity, it was necessary to show some ground of equity other than the estoppel itself. The second ground of relief alleged by the bill was to prevent a multiplicity of suits. Affirming, the court ruled that a court of equity could not exercise its jurisdiction for the purpose of preventing a multiplicity of suits in cases where the plaintiff invoking such jurisdiction did not have a prior existing cause of action, either equitable or legal, and no prior existing right to some relief.

Appellate Court Records:

COURT OF APPEALS (Docket) Roland Park Co. v. Hull, 1901, January Term, case no. 11, p. 220, MdHR 640 [MSA S412-14, 1/66/14/45]

COURT OF APPEALS (Opinions) Roland Park Co. v. Hull, 1901, January Term, case no. 11, MdHR 707-138 [MSA S393-124, 1/65/13/70]

COURT OF APPEALS (Records and Briefs) Roland Park Co. v. Hull, 1900, October Term, case no. 10 [MSA S1733-158, 1/65/2/7]

Trial Court Records:

BALTIMORE COUNTY CIRCUIT COURT (Civil Docket) Hull v. Roland Park Co., Volume NMB 20 pp. 28 and 396, Case no. 2830, MdHR 20,222-19 [MSA C358-19, 2/48/14/19]

See also: BALTIMORE COUNTY CIRCUIT COURT (Civil Docket) Hull v. Roland Park Co., Volume NMB 20, page 27, Case no. 2828, MdHR 20,222-19 [MSA C358-19, 2/48/14/19]

Civil Papers from BA CC are very incomplete for this time period.

Packard v. Hayes, 94 Md. 233, 51 A. 32 (1902)

Appeal from Baltimore City Circuit Court

OVERVIEW: The commissioner of street cleaning advertised for proposals for the collection and disposal of garbage, dead animals, ashes, and miscellaneous refuse. The board of awards forwarded all bids to the commissioner to evaluate. The commissioner rejected the lowest bid, apparently because of the proposed method for disposing of the refuse. The board then awarded the contract to the next lowest bidder, and the taxpayer brought this action to enjoin the city from entering into the contract. On appeal, the court reversed. The court agreed with the taxpayer that 1898 Md. Laws 123, § 15 conferred upon the board but a single power, which was to open the bids and award the contract to the lowest responsible bidder. The court held that the board was not given any power to make comparisons or to determine anything respecting materials offered or work proposed or the means of its execution. Nor was there any authority vested in any other agency of the municipality to take such actions in connection with awarding contracts under § 15. Because the board awarded the contract on the basis of a previously unspecified essential of the contract, the court held that the contract was ultra vires and void.

Appellate Court Records:

COURT OF APPEALS (Docket) Packard v. Hayes, 1902, January Term, case no. 8, p. 328, MdHR 640 [MSA S412-14, 1/66/14/45]

COURT OF APPEALS (Opinions) Packard v. Hayes, 1902, January Term, case no. 8, MdHR 707-142 [MSA S393-128, 1/65/13/74]

COURT OF APPEALS (Records and Briefs) Packard v. Hayes, 1901, October Term, case no. 43 [MSA S1733-176, 1/65/2/25]

COURT OF APPEALS (Misc. Papers) Packard v. Hayes, 1902, January Term, case no. 8, MdHR 708-28 [MSA S397-22, 1/65/6/14]

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT (Equity Docket A) Hayes v. Packard, 1901, Liber 40A, p. 268, case no A268 [MSA T55-40, 3/4/1/23]

BALTIMORE CITY CIRCUIT COURT (Equity Papers A) Hayes v. Packard, 1901, case no. A268, box no. 2349 [MSA T53-2922, 3/8/3/42]

Bostock v. Sams, 95 Md. 400, 52 A. 665 (1902)

Appeal from Baltimore City Court of Common Pleas

OVERVIEW: Petitioners argued that they complied with the notice and application requirements contained in Baltimore, Md., City Code art. 50, §§ 25 and 27 (1893), and that, therefore, defendants were required to issue a building permit to them. Defendants, on the other hand, argued that Baltimore, Md., City Code art. 50, § 28 (1893) gave them authority to deny a permit if, in the opinion of their majority, the building for which the permit was applied for would not conform to the general character of the buildings previously erected in the same locality and would tend materially to depreciate the value of the surrounding improved or unimproved property. The court reversed the order and remanded the cause, opining that that portion of § 28, which attempted to give defendants such arbitrary authority to deny petitioners a building permit was ultra vires and void. The court reasoned that neither the City's charter nor any other legislative enactment conferred any such power upon the City or its agents either expressly or implicitly, and that such power was not included within a general grant to a city of "police powers."

First Case:

Appellate Court Records:

COURT OF APPEALS (Docket) Bostick and Noel v. Sams, et al., 1902, April Term, case no. 54, p. 380, MdHR 640 [MSA S412-14, 1/66/14/45].

COURT OF APPEALS (Records and Briefs) Bostick and Noel v. Sams, et al., 1902, April Term, case no. 54 [MSA S1733-188, 1/65/2/36].

Trial Court Records:
Case filed 8 November 1901; dismissed 18 March 1902.

BALTIMORE CITY CIRCUIT COURT (Equity Docket A) Bostick and Noel v. Sams, et al., 1901, Liber 41A, p. 253, case no. A1250 [MSA T55-41, 3/4/1/24]

BALTIMORE CITY CIRCUIT COURT (Equity Papers A) Bostick and Noel v. Sams, et al., 1901, box no. 2374, case no. A1250 [MSA T53-2947, 3/8/3/67]

Second Case:

Appellate Court Records:

COURT OF APPEALS (Docket) Bostick and Noel v. Sams, et al., 1902, April Term, case no. 53, p. 379, MdHR 640 [MSA S412-14, 1/66/14/45].

COURT OF APPEALS (Records and Briefs) Bostick and Noel v. Sams, et al., 1902, April Term, case no. 53 [MSA S1733-188, 1/65/2/36].

Trial Court Records:

Case filed 19 March 1902. Unable to locate any Court of Common Pleas records. See information contained in Records and Briefs.

Mayor & City Council v. Baltimore County Water and Electric Co., 95 Md. 232, 52 A. 670 (1902)

Appeal from Baltimore City Circuit Court No. 2

OVERVIEW: The company filed this proceeding after its application for a permit to lay certain mains and pipes was refused. The court rejected the city officials' contention that the only remedy open to the company was by a petition to a court of law for a writ of mandamus. The court held that the company properly brought this action for an injunction to restrain interference with the laying of its mains. The court found that the 1886 Md. Laws 100 gave the company authority to lay water mains in certain villages. The Annexation Act, 1888 Md. Laws 98 made the part of the city where the company sought to lay the water pipes part of the city. 1891 Md. Laws ch. 123, § 6 provided that before the city could have delayed any pipes where other had laid then, the pipes should have been condemned. 1891 Md. Laws ch. 123, § 2 provided that the act should not have affected any vested rights and that all laws and ordinances not inconsistent with the act were continued and that the act should not have been construed to enlarge the powers of the mayor and city council. Therefore, the company's rights to lay pipes in the part of the city in which they sought to do so was not repealed.

Appellate Court Records:

COURT OF APPEALS (Docket) Mayor & City Council v. Baltimore County Water and Electric Co., 1902, April Term, case no. 25, p. 375, MdHR 640 [MSA S412-14, 1/66/14/45].

COURT OF APPEALS (Opinions) Mayor & City Council v. Baltimore County Water and Electric Co., 1902, April Term, case no. 25, MdHR 707-143 [MSA S393-193, 1/65/13/75]

COURT OF APPEALS (Records and Briefs) Mayor & City Council v. Baltimore County Water and Electric Co., 1902, April Term, case no. 28 [MSA S1733-186, 1/65/2/34]

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Docket A) Mayor & City Council v. Baltimore County Water and Electric Co., 1901, Volume 10A page 402, Case no. 5302 1/2A [MSA T996-10, 3/18/6/24]

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Papers A) Mayor & City Council v. Baltimore County Water and Electric Co., 1901, Box 402, Case no. 5302 1/2A [MSA T56-205, 3/23/6/90]

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West Arlington Improvement Co. v. Mount Hope Retreat, 97 Md. 191, 54 A. 982 (1903)

Appeal from Baltimore County Circuit Court

OVERVIEW: The institution had built a lake to collect stream waters for various uses, including a charity hospital. It claimed that houses constructed by the company were discharging sewage into the stream waters through a system of pipes built by the company and sought to restrain the company from continuing such discharge. The court rejected the company's contention that the institution had not come into court with clean hands, holding that it could not be denied that the institution had the rights of a riparian owner and had a right to make such use of the water. The court also rejected the company's contention that the institution turned polluted water upon others. The court noted that the hospital's sewage was emptied into another stream and that there was no evidence regarding injury to that stream with respect to any other riparian owner. The court concluded that the evidence established that the company was materially contributing to the pollution of the stream in a manner calculated to materially injure the institution. Also, the institution was not prevented from complaining about pollution from its own hog pen because the pollution it was complaining of was far worse.

Appellate Court Records:

COURT OF APPEALS (Docket) West Arlington Improvement Co. v. Mount Hope Retreat, 1903, January Term, case no. 106, p. 20, MdHR 9204 [MSA S412-15, 1/67/6/1]

COURT OF APPEALS (Opinions) West Arlington Improvement Co. v. Mount Hope Retreat, 1903, January Term, case no. 106, MdHR 707-146 [MSA S393-132, 1/65/13/78]

Unable to locate Records and briefs

Trial Court Records:

BALTIMORE COUNTY CIRCUIT COURT (Equity Docket) Mount Hope Retreat v. West Arlington Improvement Co., 1901, Volume WPC 16 pag 32, case no. 9129, MdHR 20,227-19 [MSA C326-16, 2/49/8/15]

BALTIMORE COUNTY CIRCUIT COURT (Equity Papers) Mount Hope Retreat v. West Arlington Improvement Co., 1901, Box 818 Case no. 9129 [MSA T696-148, 0/35/8/14]

Scanned as msaref 5458-51-4116 [in progress]

Fahnestock v. Feldner, 98 Md. 335, 56 A. 785 (1904)

Appeal from Baltimore City Circuit Court

OVERVIEW: A natural stream flowed over the land of the trustees and that of the adjoining landowners. The trustees claimed that the adjoining landowners, by means of work done on their properties, had so obstructed the flow of the stream that a large pond of stagnant water had formed on the trustees' land, rendering it wholly valueless and causing a nuisance. The trustees sought an injunction to prevent the adjoining landowners from further obstructing the flow of the water. A preliminary injunction was issued pending trial. The trial court dissolved the preliminary injunction and dismissed the bill. On appeal, the court held that there was no satisfactory evidence in the record that the trustees had caused or permitted their privy wells or water closets to be drained into the streams. Whatever pollution of the stream on the part of the trustees, if any, was such as resulted from the ordinary house and kitchen drainage. The stream had been used for such drainage for more than 20 years, and the trustees had a legal right to use the stream for that purpose. The adjoining landowners were not entitled to notice of the injury and opportunity to abate the nuisance before suit could be brought.

Appellate Court Records:

COURT OF APPEALS (Docket) West Arlington Improvement Co. v. Mount Hope Retreat, 1904, January Term, case no. 30, p. 94, MdHR 9204 [MSA S412-15, 1/67/6/1]

COURT OF APPEALS (Opinions) West Arlington Improvement Co. v. Mount Hope Retreat, 1904, January Term, case no. 30, MdHR 707-148 [MSA S393-134, 1/65/13/80]

Unable to locate Records and briefs

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT (Equity Docket A) Fahnestock v. Feldner, 1902, Liber 42A, p. 268, 320, 356, case no. A2268 [MSA T55-42, 3/4/1/25]

BALTIMORE CITY CIRCUIT COURT (Equity Papers A) Fahnestock v. Feldner, 1902, box no. 2405, case no. A2268 [MSA T53-2978, 3/8/4/2]

State v. Hyman, 98 Md. 596, 57 A. 6 (1904)

Appeal from Baltimore City Criminal Court

See MSA SC 5339-62-87

OVERVIEW: The indictment against defendant alleged that he violated the Act by using a tenement for the manufacture of garments by other than immediate family members, using such tenement and not being a member of the family living there, using such tenement without obtaining a permit, and failing to keep a register of the persons to whom work was given. The trial court sustained his demurrer. On appeal, the court reversed. The court held that the Act was constitutional as an exercise of the state's police power. The Act was intended for the preservation and protection of the public health and safety, and there was nothing in the Act that indicated that its purpose did not have a real and substantial relation to the police power. It was a matter of judicial notice that the manufacture of garments in improperly ventilated, unsanitary, and overcrowded apartments would likely promote the spread of disease. Thus, the State could regulate the number of persons there. The provision relating to the register was proper to enable health officers to trace where the work was being done. The Act invaded no private right of property and did not confer arbitrary or unrestricted power upon any official.

Baltimore Belt Railroad Co. v. Sattler, 100 Md. 306, 59 A. 654 (1905)

Appeal from Baltimore City Court of Common Pleas

OVERVIEW: On review, the companies contended that the trial court erred in allowing expert testimony to show the amount or extent of the damage. Reversing, the court held that the object for which the jury was sworn, that was to say if they found there was damage, was to find the extent of it measured in dollars and cents. But to allow the experts to give such testimony not only put him in the place of the jury but permitted him to indulge in mere speculation. Witnesses who were competent for that purpose were allowed to testify as to the value of the property before and after the alleged injury. But it by no means followed that the injury was the sole cause of the diminution if any existed. Whether it was or not or to what extent was for the jury and not the witnesses to determine. The court was of opinion, therefore, that it was error to have permitted experts to give their opinions as to the fact as well as to the exact amount of damage.

Appellate Court Records:

COURT OF APPEALS (Docket) Sattler v. Baltimore Belt Railroad Co., 1904, April Term, case no. 74, p. 125, MdHR 9204 [MSA S412-15, 1/67/6/1]

Note: Can't find Record and Briefs for this case at MSA

Trial Court Records:

BALTIMORE CITY COURT OF COMMON PLEAS (Cases Instituted) Sattler v. Baltimore Belt Railroad Co., 1904, pp. 10-13 [MSA T511-51, 3/2/11/6]

BALTIMORE CITY COURT OF COMMON PLEAS (Court Papers) Sattler v. Baltimore Belt Railroad Co., 1904
box no. 238 [MSA T508-143, 3/1/7/13] or box no. 239 [MSA T508-144, 3/1/7/14]

Storck v. Mayor & City Council of Baltimore, 101 Md. 476, 61 A. 330 (1905)

Appeal from Baltimore City Circuit Court

OVERVIEW: The property owner applied for a building permit to construct a number of dwelling houses. The permit was granted and he later applied for a permit to put front steps to the houses extending out on the sidewalk beyond the building line. That permit was denied and the property owner filed his bill requesting an injunction. When the bill was dismissed, the property owner appealed. On appeal, the issue was the validity of 1904 Md. Laws 616, § 1. The property owner contended that the Act was too uncertain to be enforced and that it deprived him of the equal protection of the laws. The court noted that the Act conferred upon the city the power to regulate the limits within which it was lawful to erect steps for houses fronting on any of its streets. The court determined that the provisions of the Act in question were void for uncertainty. It further decided that the Act was also void because of an arbitrary and unreasonable classification. Finally, the court concluded that the invalid portions of the Act tainted the entire Act and the whole Act was void so far as it applied to a certain location.

Appellate Court Records:

COURT OF APPEALS (Docket) Edward Storck v. M&CC, 1905, April Term, case no. 64, p. 203, MdHR 9204 [MSA S412-15, 1/67/6/1].

COURT OF APPEALS (Records and Briefs) Edward Storck v. M&CC, 1905, April Term, case no. 56 [sic] [MSA S1733-244, 1/65/2/94]

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT (Equity Docket A) Edward Storck v. M&CC, 1905, Liber 45A, p. 75 [MSA T55-45, 3/4/1/28]

BALTIMORE CITY CIRCUIT COURT (Equity Papers A) Edward Storck v. M&CC, 1905,

Bonaparte v. Denmead, 108 Md. 174, 69 A. 697 (1908)

Appeal from Baltimore City Circuit Court

OVERVIEW: The neighbors brought a nuisance action against the stable owner seeking to enjoin the use of the building as a stable due to the noise and odor. The circuit court entered judgment in favor of the stable owner. On review, the court affirmed. The court noted that a livery stable in a town adjacent to buildings occupied as private residences was, under any circumstances, a matter of some inconvenience and annoyance and affected the comfort of the occupants, as well as diminished the value of the property for the purpose of habitation. But this was equally true of various other erections that could be mentioned, which were indispensable, and which existed in all towns. However, the court further noted that the neighbors had not sought the proper remedy. If the stable was neglected and filth was allowed to accumulate and fester, the city ordinances of Baltimore provided a remedy by fine and abatement when the nuisance arose. In the present case, the ordinances of the city provided an adequate remedy for all the annoyances complained of.

Appellate Court Records:

COURT OF APPEALS (Docket) Bonaparte v. Denmead, 1908, April Term, case no. 21, p. 28, MdHR 13,861 [MSA S412-16, 1/67/6/2]

COURT OF APPEALS (Opinions) Bonaparte v. Denmead, 1908, April Term, case no. 21, MdHR 707-161 [MSA S393-147, 1/65/13/93]

COURT OF APPEALS (Records and Briefs) Bonaparte v. Denmead, 1908, April Term, case no. 14 [MSA S1733-308, 1/65/3/8]

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT (Equity Docket A) Bonaparte v. Denmead, 1906, Liber 46A, p. 384 [MSA T55-46, 3/4/1/29]

Warren Manufacturing Company of Baltimore County v. The Mayor & City Council of Baltimore et al., 119 Md. 188, 86 A. 502 (1913)

See MSA SC 5339-62-66

OVERVIEW: The water board of the city entered into an alleged contract with the property owner for the purchase of a mill and other property of the property owner, which was situated in the valley of a river. In pursuance of the authority contained in 1908 Md. Laws 214, the water board passed a resolution to construct a dam. Alleging that the city refused to accept the property of the property owner in accordance with the terms of the contract, the property owner sought to enjoin the construction of the dam and sought specific performance of the contract. The circuit court initially enjoined the construction of the dam, but later dissolved the injunction and dismissed the property owner's bill. Affirming, the court held that the property owner was not entitled to specific performance of the contract because the water board was induced to take the contract, in part, due to misrepresentations as to the value of the machinery of the mill. The court found that the proposed dam, at either of two heights contemplated, would not harm the property owner's property. Therefore, the court held that the property owner was not entitled to an injunction.

Treuth v. State, 120 Md. 257, 87 A. 663 (1913)

Appeal from Baltimore City Criminal Court

OVERVIEW: A pier located wholly in navigable waters and outside the jurisdiction of a city was not subject to the jurisdiction of the city's courts. A tethered but floating vessel connecting the city to the pier did not extend the city's jurisdiction.

Appellate Court Records:

COURT OF APPEALS (Docket) Trueth v. State, 1913, January Term, case no. 27, p. 395, MdHR 13,861 [MSA S412-16, 1/67/6/2]

COURT OF APPEALS (Opinion) Trueth v. State, 1913, January Term, case no. 27, MdHR 707-175 [MSA S393-161, 1/65/14/11]

COURT OF APPEALS (Records and Briefs) Trueth v. State, 1913, January Term, case no. 27 [MSA S1733-396, 1/65/3/96]

Trial Court Records:

BALTIMORE CITY CRIMINAL COURT (Criminal Docket) State v. Treuth, 1912, p. 335, 605, case no. 2009, MdHR 50,334-121 [MSA C1849-12, 3/30/4/6]

BALTIMORE CITY CRIMINAL COURT (Criminal Papers) State v. Treuth, 1912, case no. 2009, box no. 147 [MSA T495-161, HF/2/34/63]
See also a number of indictments against Treuth in 1912-1913 which were dropped, no doubt as a result of the Court of Appeals decision.

United Railways & Electric Co. of Baltimore v. State Roads Commission, 123 Md. 561, 91 A. 552 (1914)

Appeal from Baltimore City Superior Court

OVERVIEW: The company argued that the changes it was required to make in its railway were not within the scope of the state's police power and that 1908 Md. Laws 141 did not give the commission the authority to interfere with the company's use of the roads. The court agreed that 1908 Md. Laws 141 did not confer such power to the commission. Section 32B of the law gave no power to take any interest, easement, or right of the company, except by agreement, gift, grant, purchase, or condemnation. Section 32C required the commission to purchase the rights to roads, and distinctly recognized the right of an electric railway to continue its occupation and use of such roads. The court held that if it was the purpose of the legislature to impose on the company the expense of changing the grade of its roadbeds and location of its tracks on public roads improved by the commission, part of 1910 Md. Laws 116 would be a nullity. The court found that the legislature intended to provide for the entire cost of improvement of roads selected by the commission and nothing suggested that any part of the expense was to be borne by electric railway companies. A verdict should have been directed for the company.

Appellate Court Records:

COURT OF APPEALS (Docket) United Railways & Electric Co. of Baltimore v. State Roads Commission, 1914, April Term, case no. 27, p. 452, MdHR 13,861 [MSA S412-16, 1/67/6/2]

COURT OF APPEALS (Opinions) United Railways & Electric Co. of Baltimore v. State Roads Commission, 1914, April Term, case no. 27, MdHR 707-180 [MSA S393-166, 1/65/14/16]

COURT OF APPEALS (Records and Briefs) United Railways & Electric Co. of Baltimore v. State Roads Commission, 1914, April Term, case no. 27 [MSA S1733-425, 1/65/3/125]

Trial Court Records:

BALTIMORE CITY SUPERIOR COURT (Cases Instituted) State Roads Commission v. United Railways & Electric Co. of Baltimore, 1912, vol. II, p. 598, "box 1844," MdHR 50,336-79 [MSA C1497-80, 2/16/12/17]

BALTIMORE CITY SUPERIOR COURT (Civil Papers) State Roads Commission v. United Railways & Electric Co. of Baltimore, 1912, "box 1844," box no. 97 [MSA T583-342, 2/25/8/33]

Public Service Commission v. United Railways and Electric Co. of Baltimore, 126 Md. 478, 95 A. 170 (1914)

Appeal from Baltimore City Circuit Court No. 2

OVERVIEW: The residents of an unserved district complained to the Commission that there was a demand for rail service in their area and that the company held a right of way to construct a line but refused to do so. The company answered that it had determined that line was not profitable. The Commission held hearings and ordered the company to make the extension. The company sought judicial review. The trial court vacated the Commission's order and remanded. On remand, the Commission again ordered the extension but downsized the requirements. The company sought judicial review. The trial court enjoined the Commission from enforcement of the order as unreasonable. The Commission appealed. The court affirmed. Because the charter only authorized the extension, the company was not required to construct it to the point were it was not remunerative. The Commission's power did not include the ability to order an unprofitable extension regardless of the demand. The Commission's attempt to designate the equipment and construction was an improper invasion of the honest judgment and discretion of the company's directors.

Appellate Court Records:

COURT OF APPEALS (Docket) Public Service Commission v. United Railways & Electric Co. of Baltimore, 1915, April Term, case no. 44, p. 26, MdHR 19,492 [MSA S412-17, 1/67/6/3]

COURT OF APPEALS (Opinions) Public Service Commission v. United Railways & Electric Co. of Baltimore, 1915, April Term, case no. 44, MdHR 707-184 [MSA S393-170, 1/65/14/20]

COURT OF APPEALS (Records and Briefs) Public Service Commission v. United Railways & Electric Co. of Baltimore, 1915, April Term, case no. 44 [MSA S1733-445, 1/65/4/15]

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Docket A) United Railways and Electric Co. of Baltimore v. Public Service Commission, 1913, Volume 22A page 416, Case no. 9587A [MSA T996-22, 3/18/6/36]

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Papers A) United Railways and Electric Co. of Baltimore v. Public Service Commission, 1913, Box 998 Case no. 9587A [MSA T56-877, 3/23/13/14]

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Mayor & City Council of Baltimore v. Hampton Court Co., 126 Md. 341, 94 A. 1018 (1915)

Appeal from Baltimore City Circuit Court No. 2

OVERVIEW: The commissioner removed ashes from apartment houses for years as part of the duty imposed upon him by Baltimore, Md., City Code art. 48, §§ 187-188 (1893). The apartment houses were treated as dwellings. One year, the Board of Estimates sent the commissioner a letter, which defined dwellings as houses not more than four stories in height and not having an elevator. As a result, the commissioner determined that he was not to remove the ashes from the buildings not within such definition. The city officers determined that the Board had the power to define dwellings under the powers granted by the adoption of the Charter, Chapter 123 of the Acts of 1898. The court disagreed. The provisions of the Act of 1898 were meant to preserve ordinances in effect at the time of its passage. Boards created under the charter had no power to change any duty imposed by ordinance. An ordinance was a binding local law. A municipality could change or repeal an ordinance, but the board had no such power. Also, the board's definition was no less than arbitrary. If the board's appropriation for the removal of ashes proved inadequate, it was required to use a surplus fund to supplement such appropriation.

Appellate Court Records:

COURT OF APPEALS (Docket) Mayor & City Council of Baltimore v. Hampton Court Co., 1915, April Term, case no. 19, p. 22, MdHR 19,492 [MSA S412-17, 1/67/6/3]

COURT OF APPEALS (Opinions) Mayor & City Council of Baltimore v. Hampton Court Co., 1915, April Term, case no. 19, MdHR 707-183 [MSA S393-169, 1/65/14/19]

COURT OF APPEALS (Records and Briefs) Mayor & City Council of Baltimore v. Hampton Court Co., 1915, April Term, case no. 19 [MSA S1733-443, 1/65/4/13]

See also William Larkins v. Hampton Court Co., 1915, April Term, case no. 20

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Docket A) Hampton Court Co. v. Mayor and City Council of Baltimore, 1914, Volume 23A page 192, Case no. 9777A [MSA T996-23, 3/18/6/37]

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Papers A) Hampton Court Co. v. Mayor and City Council of Baltimore, 1914, Box 1021 Case no. 9777A [MSA T56-903, 3/23/13/37]

Brack v. Mayor & City Council of Baltimore, 128 Md. 430, 97 A. 548 (1916)

Note: This was the second appeal. Original case is *Brack v. Mayor & City Council of Baltimore*, 125 Md. 378, 93 A. 994 (1915).

Appeal from Baltimore County Circuit Court

OVERVIEW: The mayor brought an action against the property owner seeking to condemn certain lands of the property owner in order to establish a water system to benefit the city. The jury found that the mayor was entitled to acquire the property owner's land and fixed the damages. The property owner appealed from the judgment contending that the mayor could only have acquired a fee simple title to the condemned property and could not have the right of way reserved over the property. The property owner alleged that by condemning the tract in fee simple the portion of the farm on which the improvements were located would be cut off from the public road and rendered useless. The property owner contended that the reservation of the right of way was calculated to prevent the real situation from becoming apparent to the jury, which resulted in inadequate compensation being allowed. The court stated that there was nothing in statutory law that prevented the city from taking less than a fee simple title.

First Case

Trial Court Records:

BALTIMORE COUNTY CIRCUIT COURT (Condemnation Docket) Mayor and City Council v. Henry L. Brack and Emma Brack, 1912, case no. 5, Liber WPC 1, pps. 5, 23, 24, MdHR 20,231-1 [MSA C304-3, 2/49/10/038].

BALTIMORE COUNTY CIRCUIT COURT (Condemnation Papers) Mayor and City Council v. Henry L. Brack and Emma Brack, 1912, case no. 5, box no. 858 [MSA T1527-1, 00/37/08/001].

Appeals Court Records:

First Appeal, decided February 17, 1915, 125 Md. 378

COURT OF APPEALS (Docket) Brack v. Mayor and City Council, 1915, January Term, case no. 9, Liber CCM 2, p. 2,, MdHR 19,492 [MSA S412-17, 1/67/06/003].

COURT OF APPEALS (Records and Briefs) Brack v. Mayor and City Council, 1915, January Term, case no. 9 [MSA S1733-436, 1/65/04/006].

COURT OF APPEALS (Opinions) Brack v. Mayor and City Council, 1915, January Term, case no. 9, MdHR 707-182 [MSA S393-168, 1/65/14/018].

Second Appeal, decided April 5, 1916, 128 Md. 430

COURT OF APPEALS (Docket) Brack v. Mayor and City Council, 1916, January Term, case no. 34, Liber CCM 2, p. 56, MdHR 19,492 [MSA S412-17, 1/67/06/003].

COURT OF APPEALS (Records and Briefs) Brack v. Mayor and City Council, 1916, January Term, case no. 34 [MSA S1733-464, 1/65/04/034].

COURT OF APPEALS (Opinions) Brack v. Mayor and City Council, 1916, January Term, case no. 34, MdHR 707-186 [MSA S393-172, 1/65/14/022].

Second Case

Trial Court Records

Filed 1922. The Bracks and the city settled before the case went to trial, and the city paid them $45,000 for all of their land.

BALTIMORE COUNTY CIRCUIT COURT (Condemnation Docket) Mayor and City Council v. Henry L. Brack and Emma Brack, 1922, case no. 36, Liber WPC 1, p. 38, MdHR 20,231-1 [MSA C304-3, 2/49/10/038].

BALTIMORE COUNTY CIRCUIT COURT (Condemnation Papers) Mayor and City Council v. Henry L. Brack and Emma Brack, 1922, case no. 36, box no. 858 [MSA T1527-1, 00/37/08/001].

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Park Land Corp. of Baltimore City v. Mayor & City Council of Baltimore, 128 Md. 611, 98 A. 153 (1916)

Note: This was the second appeal. Original case is *Mayor & City Council of Baltimore v. Park Corp.*, 126 Md. 358, 95 A. 33 (1915).

Appeal from Baltimore City Court

OVERVIEW: The mayor and city council brought an action against the land corporation and others to force them to allow a sewerage connection through the process of condemnation. The city court entered judgment in favor of the mayor and city council in the second trial of the case. On review, the court reversed and remanded for another new trial. The trial court jury had returned a modest award to the land company and others, but the land company and others challenged the jurisdiction of the court by asserting that the property that was being condemned did not lie within the city. The court found that the issue of jurisdiction was not timely. It could not be raised upon a mandate following a first appeal of the matter. Furthermore, if the property was partly within the city limits and partly without, the trial court had held jurisdiction to hear the matter. The court found no evidentiary errors. However, the court found that the city had not included all of the properties needed in order to obtain relief. The city would not be permitted to collect and empty water upon the property of owners that were not parties to the action.

Appellate Court Records:

First Appeal:

COURT OF APPEALS (Docket) Mayor & City Council of Baltimore v. Park Corp., 1915, April Term, case no. 33, p. 24 MdHR 19,492 [MSA S412-17, 1/67/6/3]

COURT OF APPEALS (Opinions) Mayor & City Council of Baltimore v. Park Corp., 1915, April Term, case no. 33, MdHR 707-184 [MSA S393-170, 1/65/14/20]

COURT OF APPEALS (Records and Briefs) Mayor & City Council of Baltimore v. Park Corp., 1915, April Term, case no. 33 [MSA S1733-444, 1/65/4/14]

Second Appeal:

COURT OF APPEALS (Docket) Park Land Corp. of Baltimore City v. Mayor & City Council of Baltimore, 1916, April Term, case no. 6, p. 66, MdHR 19,492 [MSA S412-17, 1/67/6/3]

COURT OF APPEALS (Opinions) Park Land Corp. of Baltimore City v. Mayor & City Council of Baltimore, 1916, April Term, case no. 6, MdHR 707-187 [MSA S393-173, 1/65/14/23]

COURT OF APPEALS (Records and Briefs) Park Land Corp. of Baltimore City v. Mayor & City Council of Baltimore, 1916, April Term, case no. 6 [MSA S1733-459, 1/65/4/29]

Trial Court Records:

BALTIMORE CITY COURT (Petition Docket) Mayor & City Council of Baltimore v. Park Land Corp. of Baltimore City, 191?, Liber GCL 6, pp. 299, 304, 368, 423, 430, drawer no. 12 [MSA T549-6, 3/34/13/45]

BALTIMORE CITY COURT (Court Papers) Mayor & City Council of Baltimore v. Park Land Corp. of Baltimore City, 191?, drawer no. 12, box no. 110 [MSA T545-732, 3/32/2/20]

BALTIMORE CITY COURT (Court Papers) Mayor & City Council of Baltimore v. Park Land Corp. of Baltimore City, 191?, drawer no. 12, box no. 111 [MSA T545-733, 3/32/2/21]

Taylor v. Mayor & City Council of Baltimore, 130 Md. 133, 99 A. 900 (1917)

See MSA SC 5339-209-29

OVERVIEW: The landowner contended that the sewage plant discharged all accumulations through drains that dispelled the discharge onto her property. The landowner also claimed that the City Council was negligent in constructing and maintaining the plant. The circuit court found that the evidence was insufficient to find in favor of the landowner and directed a verdict for the City Council. The court held that the City Council had not taken the landowner's property under Md. Const. art. III, § 40 because there was not a substantial destruction of the rights of ingress to and egress from the property. However, the court determined that the City Council was not immune to liability for its negligence. The court held that a municipality, in making its drains and sewers, was not immune if it so constructed or maintained them as to amount to a nuisance upon a landowner's property. The court found that where a municipality maintained a sewer so as to discharge sewer upon private property, which interfered with the owner's enjoyment of such property, the municipality was liable. The court reversed the judgment of the circuit court

Jackson v. Shawinigan Electro Products, 132 Md 128, 103 A. 453 (1918)

See MSA SC 5339-209-5

OVERVIEW: The owner bought property for development. Some had been developed and successfully sold while other parts of the property were not yet developed. The owner sued the company for damages that sustained from the operation of a manufacturing plant. The owner alleged that after his acquisition of the property, the company erected the plant, which was operated continuously and discharged large clouds of offensive vapors. The company had urged that because the property in question was unimproved, there was no actual physical discomfort or a tangible, visible injury. In reversing the judgment below, the court held that the interference with the reasonable and comfortable use of the property and any material injury caused by the nuisance, including loss of sales or rentals, were proper items of damage for which recovery could be had. There was ample evidence to show that before the plant was put into operation, the property was suitable and available for dwelling houses. There was evidence tending to show that the property was less valuable because of the damage done by the company.

Neubauer v. Overlea Realty Co., 142 Md. 87, 120 A. 69 (1923)

Appeal from Baltimore County Circuit Court

OVERVIEW: The adjoining land developer acquired land for subdividing the acreage and constructing residences that used septic tank systems and natural drains. The water and pollutants were collected and discharged into a stream where it bounded the landowners' property. The landowners initiated an action to enjoin the adjacent land developer from using the drainage system in a way that deepened the stream and filled it with pollutants. The trial court dismissed the action because it determined that the adjacent land developer was making a reasonable use of the stream. The landowners asserted that they had the right to receive the stream in a better condition. The adjacent land developer asserted that another development was responsible for some pollution before the stream entered the landowners' property. The court reversed the decision of the trial court because it determined that the landowners had the right to have the water of a stream come to them in the condition in which they had been in the habit of using it, and it was no answer to a complaint of nuisance that others were committing similar acts of nuisance upon the stream.

Appellate Court Records:

COURT OF APPEALS (Docket) Neubauer v. Overlea Realty Co., 1922, October Term, case no. 42, p. 126, MdHR 19,493 [MSA S412-18, 1/67/6/4]

COURT OF APPEALS (Opinions) Neubauer v. Overlea Realty Co., 1922, October Term, case no. 42, MdHR 707-205 [MSA S393-191, 1/65/14/41]

COURT OF APPEALS (Records and Briefs) Neubauer v. Overlea Realty Co., 1922, October Term, case no. 42 [MSA S1733-610, 1/65/5/42]

Trial Court Records:

BALTIMORE COUNTY CIRCUIT COURT (Equity Docket) Neubauer v. Overlea Realty Co., 1921, Volume WPC 24, pp. 195 and 284, Case no. 15475, MdHR 20,227-24 [MSA C326-24, 2/49/8/23]

BALTIMORE COUNTY CIRCUIT COURT (Equity Papers) Neubauer v. Overlea Realty Co., 1921, Box 922 Case no. 15475 [MSA T696-258, 0/35/10/38]

Baltimore v. Bloecher & Schaff, Inc., 149 Md. 648, 132 A. 160 (1926)

See MSA SC 5339-143-10

OVERVIEW: The butchers objected to four sections of the ordinance. The court rejected the argument against § 7, stating that its primary, patent, and essential purpose was to confer on inspectors the power to condemn material which was intrinsically unsound, unhealthful, unwholesome, or otherwise unfit for human food, and it conferred on them no other or broader power. The court rejected the argument against § 10 for a similar reason. The court opined that the ordinance was a reasonable regulation, having a direct relation to protection of public health, and that it violated no provision of state or federal constitutions. The court observed that §§ 14-15 did not deny the butchers the equal protection of the law because those engaged in interstate commerce were already regulated by the federal government, and those beyond the city limits were beyond where the ordinance could be enforced, and were less likely to be dealing with the same level of infection and disease as a populous city. The court held that the ordinance was valid and that the demurrer to the bill should have been sustained and the bill dismissed.

Caretti v. Broring Building Co., 150 Md. 198, 132 A. 619 (1926)

Appeal from Baltimore City Circuit Court No. 2

OVERVIEW: The developer constructed about 70 houses that were connected to a sewerage system that it constructed in accordance with plans and specifications prescribed by the city. The developer agreed that as soon as the municipal sewerage system was extended to the property, the private system that served the houses would be conveyed to the city. The city paid one-half of the cost of building the septic tank into which the sewage emptied and periodically inspected the tank. While the degree of the pollution caused by the discharge into the stream from the private system was disputed, it was clear that the discharge had rendered the stream unfit for bathing or watering stock. The developer argued that the city was a necessary party to any suit concerning the private system, and that the increased pollution was caused, at least in part, by discharges from other sources. In reversing a decree that denied injunctive relief, the court held that the pollution contributed from other sources did not lessen the developer's liability. The city was not a necessary party as it was not the operator of the system where it did not own the property or build the pipes and septic tank.

Appellate Court Records:

COURT OF APPEALS (Docket) Caretti v. Broring Building Co., 1925, October Term, case no. 87, p. 265, MdHR 19,493 [MSA S412-18, 1/67/6/4]

COURT OF APPEALS (Opinions) Caretti v. Broring Building Co., 1925, October Term, case no. 87, MdHR 707-217 [MSA S393-203, 1/65/14/53]

COURT OF APPEALS (Records and Briefs) Caretti v. Broring Building Co., 1925, October Term, case no. 87 [MSA S1733-704, 1/65/5/136]

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Docket A) Caretti v. Broring Building Co., 1925, Volume 34A page 18, Case no. 14709A [MSA T996-34, 0/62/14/5]

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Papers A) Caretti v. Broring Building Co., 1925, Box 1408 Case no. 14709A [MSA T56-1320, 3/24/3/40]

Tighe v. Osborne, 150 Md. 452, 133 A. 465 (1926)

Appeal from Baltimore City Court

OVERVIEW: Appellees proposed to erect a plant for destruction of garbage by incineration on an island within the city limits. The taxpayers filed a complaint in the trial court seeking to enjoin appellees from contracting for the erection of the plant on the island. After receiving testimony by the taxpayers, the trial court dismissed the action. On appeal, the court affirmed the order of the trial court. The court held that the plan and proposed contract of the city for erection of the plant and acceptance of bids did not violate certain provisions of the city's charter. The plans were specific and were not required to be in more detail than was necessary for the attainment of the object sought by the contract. The erection of the plant on the island did not violate Md. Code Pub. Local L., art. 2, § 294, which prohibited the erection of garbage reduction plants in that area. The intent of the legislature in enacting § 294 indicated that an incineration plant was different from a reduction plant.

Appellate Court Records:

COURT OF APPEALS (Docket) Tighe v. Osborne, 1925, October Term, no. 59, p. 261, MdHR 19,493 [MSA S412-18, 1/67/6/4].

COURT OF APPEALS (Records and Briefs) Tighe v. Osborne, 1925, October Term, no. 59 [MSA S1733-701, 1/65/5/133].

Trial Court Records:

BALTIMORE CITY COURT (Petition Docket) Tighe v. Osborne, 1925, GCL 8, p. 425, "box 1219" [MSA T549-8, 3/34/14/2].

BALTIMORE CITY COURT (Court Papers) Tighe v. Osborne, 1925, "box 1219," box no. 307/308 [MSA T545-290/291, 3/32/7/17-18].

Stoll v. Mayor & City Council of Baltimore, 163 Md. 282, 162 A. 267 (1932)

Appeal from Baltimore City Circuit Court

OVERVIEW: A city's erection of a garbage incineration plant on an island did not violate a statute prohibiting garbage reduction plants in that area because incineration plants were different from reduction plants.

Appellate Court Records:

COURT OF APPEALS (Docket) Stoll v. Mayor and City Council of Baltimore, 1932, October Term, case no. 66, MdHR 19,494 [MSA S412-19, 1/67/6/5]

COURT OF APPEALS (Opinions) Stoll v. Mayor and City Council of Baltimore, 1932, October Term, case no. 66, MdHR 707-237 [MSA S393-223, 1/65/14/03]

COURT OF APPEALS (Records and Briefs) Stoll v. Mayor and City Council of Baltimore, 1932, October Term, case no. 66 [MSA S1733-886, 1/66/0/66]

Trial Court Records:

BALTIMORE CITY CIRCUIT COURT (Equity Docket A) Stoll v. Mayor and City Council of Baltimore, 1932, Volume 72A page 353, Case no. A15152 [MSA T55-77, 0/64/4/12]

BALTIMORE CITY CIRCUIT COURT (Equity Papers A) Stoll v. Mayor and City Council of Baltimore, 1932, Box 3598 Case no. A15152 [MSA T53-4214, 3/9/2/43]

Jack Lewis, Inc. v. Mayor and City Council of Baltimore, 164 Md. 146, 164 A. 220 (1933)

See MSA SC 5339-209-27

OVERVIEW: The proposed funeral home would have been in a long-established residential district. The use was prohibited by Baltimore, Md., Ordinance No. 1247, § 8(32) (1931). The applicant did not challenge the constitutionality of the ordinance as a whole but did argue that the ordinance unlawfully delegated to administrative officials the police power of the state. The court affirmed. First, the court held that the applicant was correct in that Baltimore, Md., Ordinance No. 1247, §§ 32(g-3) and 33(b) (1931) were unlawful because they gave the board unguided discretion to set aside or annul the ordinance as to any given case. However, this did not help the applicant because the applicant's argument was that the board should have exercised that unlawful delegation to grant him a permit. The court then found that Baltimore, Md., Ordinance No. 1247, § 8(32) (1931), which excluded funeral homes from a residential district, was a lawful exercise of the police power. In its determination, the court cited the natural horror and uneasiness the establishment would generate in the minds of the neighbors in addition to the diminished property values.

Weinberg v. Kracke, 189 Md. 275, 55 A.2d (1947)

October Term 1947 No. 19
Appeal from Baltimore City Circuit Court

The taxpayers brought their action on behalf of themselves and the "hundreds of neighbors" that also lived in their neighborhood. Their complaint alleged the commission of a public wrong because the owners were violating a zoning ordinance by operating their salvage business in a residential area. The owners argued that the complaint did not allege any damages to the taxpayers distinct in character from those to the public, and, therefore, that it did not entitle the taxpayers to any relief in equity. Although the court agreed that the taxpayers had failed to allege special damages suffered by them personally, it affirmed the judgment, opining that the taxpayers were entitled to an opportunity to prove such special damages and that if they were able to do so, that they were entitled to an injunction. The court explained that in situations where a complainant was seeking to redress a public wrong, he had no standing in court unless he had also suffered some special damage from such wrong differing in character and kind from that suffered by the general public.

Appellate Court Records:

COURT OF APPEALS (Opinions) Weinberg v. Kracke, 1947, October Term, case no. 19, MdHR 11,488-6 [MSA S393-260, 1/66/6/11]

COURT OF APPEALS (Records and Briefs) Weinberg v. Kracke, 1947, October Term, case no. 19 [MSA S1733-1214, 1/27/3/11]

COURT OF APPEALS (Transcripts) Weinberg v. Kracke, 1947, October Term, case no. 19, MdHR 9974-3 [MSA S434-63, 1/67/10/16]

Trial court records -

BALTIMORE CITY CIRCUIT COURT (Equity Docket A, Miscellaneous) 1946, Volume 86A page 547 and following [MSA T55-92, 1/20/11/47]

BALTIMORE CITY CIRCUIT COURT (Equity Papers A, Miscellaneous) 1946, Box 1618 Case No. A29338 [MSA T53-5204, 3/9/12/94]

Kracke v. Weinberg, 197 Md. 339, 79 A.2d 387 (1951)

October Term 1950 No. 98
Appeal from Baltimore City Circuit Court

The landowners challenged Baltimore, Md., Ordinance No. 510, which rezoned their property. The court determined that the landowners had the right to ask for declaratory relief. The landowners claimed that the rezoning amounted to an unauthorized taking of their property because the property had no value for residential purposes. The landowners claimed that the ordinance was contrary to § 3 of the Zoning Enabling Act, Md. Code Pub. Gen. Laws art. 66B, and that it amounted to a taking of the landowners' property without due process. The court found no justification for the rezoning. There was no showing of a mistake in the original zoning, and the character of the neighborhood had not changed to such an extent to justify the rezoning. The property had always been commercial, and apparently there was little chance of it ever being used for residential purposes. Rezoning to residential use resulted in preventing the landowners from using it, not only for its most suitable use, but for any practical use. Under the circumstances, the landowners' property was being taken from them without compensation, and the ordinance was void as to the landowners' property.

Appellate Court Records:

COURT OF APPEALS (Opinions) Kracke v. Weinberg, 1950, October Term, case no. 98, MdHR 14,407-2, MSA S393-280, 1/66/6/28]

COURT OF APPEALS (Records and Briefs) Kracke v. Weinberg, 1950, October Term, case no. 98 [MSA S1733-1316, 1/27/3/113]

COURT OF APPEALS (Misc. Papers) Kracke v. Weinberg, 1950, October Term, case no. 98, MdHR 11,516-2 [MSA S397-128, 1/65/8/22]

COURT OF APPEALS (Transcripts) Kracke v. Weinberg, 1950, October Term, case no. 98, MdHR 11,515-19 [MSA S434-179, 1/67/12/40]

Trial court records -

BALTIMORE CITY CIRCUIT COURT (Equity Docket A, Miscellaneous) 1948, Volume 88A page 296 and following [MSA T55-95, 1/20/11/50]

BALTIMORE CITY CIRCUIT COURT (Equity Papers A, Miscellaneous) 1948, Box 1639 Case No. A30388 [MSA T53-5232, 03/9/13/21]

Warren v. Fitzgerald, 189 Md. 476, 56 A.2d 827 (1948)

See MSA SC 5339-209-12 (All trial and appellate records have been scanned and posted.)

The transit company was chartered to provide mass transportation by any motive power and means of traction. It was given the power to lay street rails and it originally operated trolley cars. When the directors decided to abandon nearly 50 percent of its track mileage and operate motor buses under a subsidiary instead of trolley cars, the shareholders sued, arguing that prior shareholder approval was required and that the conversion from trolley cars to motor buses and from an operating company to a holding company changed the corporate function and was ultra vires. The bill was dismissed. In affirming, the court of appeals ruled that, under the transit company's charter, transportation was the end and rail was only the means. Because the transportation power included the power to operate motor buses, the means could be changed from rail. Shareholder pre-approval was not required because the conversion was a business decision within the province of the directors under Md. Ann. Code art. 23. Moreover, the alleged change to a mere holding company of the subsidiary was not unlawful; one corporation had implied power to hold the stock of another corporation.

Green v. Garrett, 192 Md. 52, 63 A.2d 326 (1949)

October Term 1948 No. 58
Appeal from Baltimore City Circuit Court No. 2

The Department owned a stadium built on an abandoned brick yard. Seventeen years after it was built, lights were added and night games held. Five years later, the baseball club used the stadium after fire destroyed its facilities. After playing games there for three years, the Department offered a long term agreement for the stadium's use. The court rejected the argument that the issue was moot. The court held that the Department had the authority to permit professional games at the stadium. The court acknowledged that the agreement provided for a substantial increase of professional activities at the stadium. The court explained that the stadium was a non-conforming use, established before the adoption of residential zoning for the area. The court ruled that the Department was entitled to continue the use. The court agreed with the trial court's restrictions on the use of the loudspeaker. The court directed modifications to the lighting system because it was not necessary to project blinding lights into peoples' homes. The court also directed paving of the parking lots to eliminate dust and parking problems. The court added that the police were responsible for keeping order.

Appellate Court Records:

COURT OF APPEALS (Opinions) Green v. Garrett, 1948, case no. 58, MdHR 11,488-7 [MSA S393-261, 1/66/6/12]

COURT OF APPEALS (Records and Briefs) Green v. Garrett, 1948, case no. 58 [MSA S1733-1248, 1/27/3/45]

COURT OF APPEALS (Misc. Papers) Green v. Garrett, 1948, case no. 58, MdHR 10,903-2 [MSA S397-121, 1/65/8/15]

COURT OF APPEALS (Transcripts) Green v. Garrett, 1948, case no. 58, MdHR 10,898-8 [MSA S434-77, 1/67/11/6] (volumes 1&2)

COURT OF APPEALS (Transcripts) Green v. Garrett, 1948, case no. 58, MdHR 10,898-9 [MSA S434-100, 1/67/11/7] (volumes 3&4)

Trial court records -

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Docket A, Miscellaneous) 1947, Volume 56A page 721 and following [MSA T996-57, 1/40/10/50]

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Papers A, Miscellaneous) 1947, Box 2384 Case No. 29205A [MSA T56-2384, 3/25/1/16]

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Papers A, Miscellaneous) 1947, Box 2406 Case No. 29205A [MSA T56-2385, 3/25/8/41] (photographs)

Chissell v. Mayor and City Council of Baltimore, 193 Md. 535, 69 A.2d 53 (1949)

See MSA SC 5339-213-3 (All trial and appellate records have been scanned and posted.)

Baltimore, Md., Ordinance No. 169 made the streets where the landowners' properties were located into one-way streets. The landowners received notices of increased assessments for their properties, but they did not appeal or request a reduction. The landowners instead sought to enjoin the enforcement of the ordinance and the collection of the taxes because of the alleged fraudulent manner in which the increased assessments were made. The trial court dismissed the landowners' action, and they appealed. The court held that Ordinance No. 169 was an exercise of the City's strictly governmental power over streets, not an invasion of property rights or other personal rights, and was designed to regulate and promote the use of the streets for the primary purpose of streets, that is, for passage. The court determined that such legislation, otherwise valid, could not be pronounced arbitrary, capricious, or fraudulent because it was dictated by the logic of events, to carry out a plan already followed for several years and to make use of a preparatory expenditure already made. The court concluded that there was no indication that the City concealed or withheld any "inside information."

Baltimore Transit Co. v. Public Service Commission, 206 Md. 533, 112 A.2d 687 (1955)

October Term 1954 No. 106
Appeal from Baltimore City Circuit Court

The Company sought permission from the Commission to increase several of its fares. The Commission permitted an increase in certain of the fares while keeping others the same. The Company asked the circuit court to vacate the order and enjoin the Commission from enforcing its provisions. The trial court dismissed the three bills of complaint, affirming the order of the Commission. On appeal, the Company's chief complaints as to the rate base were that the Commission ignored present value, that it relied only on historical value, and that it erred in its use of excessive depreciation of the rail properties. The court affirmed the judgment, holding that the burden of proof was upon the one who complained of the validity of the Commission's order. The court held that its orders were correct and its judgment was accorded the respect due an informed body aided by a competent and experienced staff. There was no showing that the Commission's order produced a confiscation of the Company's property. The consideration that the Commission gave the value of the services rendered, in fixing the rate of return, neither infringed any constitutional right of the Company nor affronted any statute.

Appellate Court Records:

COURT OF APPEALS (Opinions) Baltimore Transit Co. v. Public Service Commission, 1954, October Term, case no. 106, MdHR 15,570-3 [MSA S393-284, 1/66/6/31]

COURT OF APPEALS (Records and Briefs) Baltimore Transit Co. v. Public Service Commission, 1954, October Term, case no. 106A [MSA S1733-1421, 1/27/4/26]

COURT OF APPEALS (Records and Briefs) Baltimore Transit Co. v. Public Service Commission, 1954, October Term, case no. 106B [MSA S1733-1422, 1/27/4/27]

COURT OF APPEALS (Misc. Papers) Baltimore Transit Co. v. Public Service Commission, 1954, October Term, case no. 106, MdHR 13,134-3 [MSA S371-141, 1/65/8/35

Trial court records -

Following found in equity index. Both need to be examined to determined which one is the case in question.

BALTIMORE CITY CIRCUIT COURT (Equity Papers A, Miscellaneous) 1953, Box 1704 Case No. A33633 [MSA T53-5302, 3/10/1/6]
docket - 93A/630, MSA T55 1/20/11

BALTIMORE CITY CIRCUIT COURT (Equity Papers A, Miscellaneous) 1954, Box 1718, Case No. A34297 [MSA T53-5319, 3/10/1/20]
docket - 94A/423, MSA T55 1/20/11

Pressman v. Barnes, 209 Md. 544, 121 A.2d 816 (1956)

See MSA SC 5339-209-15 (All trial and appellate records have been scanned and posted.)

The taxpayer filed a lawsuit against defendants, the director, mayor, and city council, to invalidate portions of Baltimore, Md., Ordinance 786 that created the office of Director of Traffic and an administrative regulation promulgated by the director prescribing speed limits. The trial court entered a decree declaring that the ordinance and the director's regulation were valid, with the exception of the provisions in the regulation as to minimum fines and presumptions as to guilt, which were invalid. On appeal, the taxpayers contended that the power to set speed limits was a legislative power, and the mayor and city council could not lawfully delegate it to an administrative official. The court affirmed in part and reversed in part. The court held that the city had no power to regulate the speed of vehicles on any street that was a part of the state or federal highway system or an extension thereof. Therefore, the trial court was to issue an injunction to restrain the director from setting the speed limits on such highways.

Wagner v. Mayor and City Council of Baltimore, 210 Md. 615 (1956)

October Term 1955 No. 195
Appeal from Anne Arundel County Circuit Court

A patent for land described as an island in a river was issued to an owner. He and others, who claimed an equitable interest in the island, joined in a deed by which they conveyed the island to the holder. The City brought a suit to have the patent issued to the owner and the deed to the holder set aside and declared null and void. The original bill of complaint was filed on March 28, 1916, but the case was dormant until May 28, 1954. The case proceeded and resulted in a decree that set aside the patent and declared it null and void. The successors appealed from the decree. On appeal, the court affirmed the decree and held that the testimony was ample to support the conclusion that the island was covered by navigable waters within the meaning of Md. Ann. Code art. 54, § 48 (1951) at the time the patent was granted. The court ruled that § 48 stated that no patent issued would impair or affect the rights of riparian proprietors and that no patent would issue for land covered by navigable waters. The court held that it made no difference in result whether the tidal or factual test of navigability was adopted.

Appellate court records -

COURT OF APPEALS (Records and Briefs) October Term 1955 No. 195 [MSA S1733-1457, 1/27/4/62]

COURT OF APPEALS (Opinions) October Term 1955 No. 195 [MSA S393-287, 1/66/6/34]

No. Misc. papers

Trial court records -

ANNE ARUNDEL COUNTY CIRCUIT COURT (Equity Docket) 1916, Volume GW 6 page 66 and following [MSA T1162-7, OR/1/11/93]

ANNE ARUNDEL COUNTY CIRCUIT COURT (Equity Papers) 1916, Box 68 Case No. 4071 [MSA T71-56, 0/28/3/32]

ANNE ARUNDEL COUNTY CIRCUIT COURT (Equity Papers, Exhibits) 1916, Box 1 Case No. 4071 [MSA T1463-1, 0/30/14/27]

Land Office records -

LAND OFFICE (Certificates, Patented, AA) Reed Bird Island, 1909, Certificate No. 1258A, MdHR 40,003-1258A [MSA S1189-17, 1/25/1/69]

LAND OFFICE (Patent Record) Reed Bird Island, 1909, Volume EST 1 page 557, MdHR 17,511 [MSA S11-204, 1/23/5/24]

LAND OFFICE (Patent Record) Reed Bird Island, 1909, Volume EST 1 page 217, MdHR 17,512 [MSA S11-205, 1/23/5/25]

Mutual Chemical Company v. Thurston, 222 Md. 86, 158 A.2d 899 (1960)

September Term 1959 No. 154
Appeal from Baltimore City Superior Court

The employee had been continuously exposed to chrome fumes and dust. The employee's lung was removed and he was resuscitated during an operation due to cardiac arrest. Later, six ribs were removed. The employee filed for permanent disability benefits. The employer contested the claim. The medical testimony was conflicting. The Board awarded total permanent disability to the employee. The Commission and the trial court affirmed. The employer appealed, and the court affirmed. The Board's failure to make specific findings as to whether the disability met the standards set forth in Md. Ann. Code art. 101, § 23(d) (1957) concerning compensability for a disability caused by a pulmonary dust disease was the result of a failure to raise the necessary specific issues. Absent the raising of those issues, § 23(d) had not required more specific findings. It was implicit in the Board's findings that the employee had met the burden of showing that his disease arose out of exposure to harmful conditions in his employment that were characteristic of and peculiar to that employment. Because there was some substantial and legally sufficient evidence to support the findings, the court affirmed.

Appellate Court Records:

COURT OF APPEALS (Opinions) Mutual Chemical Company v. Thurston, 1959, September Term, case no. 154, MdHR 16,379-2 [MSA S393-297, 1/66/6/44]

COURT OF APPEALS (Records and Briefs) Mutual Chemical Company v. Thurston, 1959, September Term, case no. 154 [MSA S1733-1591, 1/27/4/196]

COURT OF APPEALS (Misc. Papers) Mutual Chemical Company v. Thurston, 1959, September Term, case no. 154, MdHR 16,128-4 [MSA S397-166, 1/65/9/15]

Still need to locate trial court materials.

Van Ruymbeke v. Patapsco Industrial Park, 261 Md. 470, 276 A.2d 61 (1971)

September Term 1970 No. 326
Appeal from Baltimore County Circuit Court

Plaintiffs had title to certain land abutting a river. Defendants had title to land on an island in the river. The river changed course, causing the island and plaintiffs' land to become connected, and plaintiffs claimed the land which was accreted by the river. Defendants took possession of the accreted land. Plaintiffs filed an action for possession. The trial court found in favor of plaintiffs, and granted them title to certain of the accreted land and money damages. Plaintiffs appealed the trial court's judgment, and claimed that they were entitled to all of the accreted land because any accretion was from the shore outward, not from the island inward. The court affirmed. The court held that the trial court did not err in permitting the jury to determine what portion of the land had accreted to what party. The court held that the trial court did not err in refusing to permit plaintiffs to present evidence of the profits defendants made on the property as damages, because that amount was too uncertain, speculative, and remote. The court held that the trial court properly calculated damages at the rental value of the property improperly controlled by defendants.

Appellate Court Records:

COURT OF APPEALS (Opinions) Van Ruymbeke v. Patapsco Industrial Park, 1970, September Term, no. 326, MdHR 19,568-7 [MSA S393-253, 1/65/11/12]

COURT OF APPEALS (Records and Briefs) Van Ruymbeke v. Patapsco Industrial Park, 1970, September Term, no. 326 [MSA S1733-2121, 1/11/7/133]

COURT OF APPEALS (Misc. Papers) Van Ruymbeke v. Patapsco Industrial Park, 1970, September Term, no. 326, MdHR 19,616-4 [MSA S393-351, 1/66/6/93]

Trial court papers -

BALTIMORE COUNTY CIRCUIT COURT (Civil Docket) 1965, Volume OTG 76 page 63 and following, case no. 61693 [MSA T2138-16, 1/49/11/21]

BALTIMORE COUNTY CIRCUIT COURT (Civil Papers) 1965, Box 314 Case No. 61693 [MSA T697-465, 2/54/14/38]

condemnation proceedings against Patapsco Industrial Park - related case?
BALTIMORE COUNTY CIRCUIT COURT (Condemnation Papers) Baltimore County v. Patapsco Industrial Park, 1968-69, Box C3 Case No. 1575 [MSA T1527-29, OR/6/4/20]

Hylton v. Mayor and City Council of Baltimore, 268 Md. 266, 300 A.2d 656 (1972)

September Term 1972 No. 298
Appeal from Baltimore City Circuit Court No. 2

The city entered into a contract with a private company for the construction of a resource recovery solid waste disposal system. The city entered into the contract without engaging in the competitive bidding process outlined in its charter, and the taxpayers alleged in their complaint that such failure rendered the contract null and void. The trial court determined that there had been no violation of the city's competitive bidding requirements, and it declared the contract valid and binding upon the parties. In affirming the trial court's decision, the court held that in the situation where the company at issue was the only company capable of fulfilling the city's specific needs, competitive bidding was not required by the city's charter.

Appellate Court Records:

COURT OF APPEALS (Opinions) Hylton v. Mayor and City Council of Baltimore, 1972, September Term, case no. 298, MdHR 20,080-7 [MSA S393-359, 1/66/7/5]

COURT OF APPEALS (Misc. Papers) Hylton v. Mayor and City Council of Baltimore, 1972, September Term, case no. 298, MdHR 20,080-17 [MSA S397-273, 1/65/11/32]

No Records and Briefs at MSA.

Trial court records -

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Docket A, Miscellaneous) Hylton v. Mayor and City Council, 1972, Volume 81A pages 219 and following [MSA T996-84, 2/47/3/56]

BALTIMORE CITY CIRCUIT COURT NO. 2 (Equity Papers A, Miscellaneous) Hylton v. Mayor and City Council, 1972, Box 766 Case No. 44320A [MSA T56-2731, 3/25/12/35]

Baltimore Gas and Electric Co. v. Department of Health and Mental Hygiene, 284 Md. 216, 395 A.2d 1174 (1979)

September Term 1978 No. 68
Appeal from the Baltimore City Superior Court

The department sent a letter to the company requesting that it submit applications for permits to operate all of its fuel burning equipment and the company refused, claiming that such request was at odds with Md. Code Ann. art. 43, § 706. The department sought a declaratory judgment against the company, which the trial court granted, and the company appealed. The court reversed and remanded the case, holding that § 706 was ambiguous and as the court construed it, the statute did not require the company to obtain a permit from the department as a condition to use one of its own generating stations. The court found that electric companies were subject to the overall supervision of the Public Services Commission and other statutes for which the department was permitted to seek injunctive relief and civil penalties, all of which served as adequate protections to the public. The court concluded that the department's initial interpretation of § 706, that of stripping the department of its power over electric companies, was significant and combined with the legislative purpose, resulted in the department having no control at any time over the company's generating stations.

Appellate Court Records:

COURT OF APPEALS (Opinions) Baltimore Gas and Electric Co. v. Department of Health and Mental Hygiene, 1978, September Term, case no. 68, MdHR 50,181-2 [MSA S393-379, 1/66/7/24]

COURT OF APPEALS (Records and Briefs) Baltimore Gas and Electric Co. v. Department of Health and Mental Hygiene, 1978, September Term, case no. 68 [MSA S1733-2459, 1/46/6/115]

COURT OF APPEALS (Misc. Papers) Baltimore Gas and Electric Co. v. Department of Health and Mental Hygiene, 1978, September Term, case no. 68, MdHR 50,021-2 [MSA S397-302, 1/65/12/16]

Trial court records -

BALTIMORE CITY SUPERIOR COURT (Court Papers) 1977, Box 227 Case No. 10972 [MSA T51-1577, 3/35/2/49]

Need to locate trial court docket.

Browning-Ferris v. Anne Arundel County, 292 Md. 136, 438 A.2d 269 (1981)

September Term 1980 No. 151
Appeal from Anne Arundel County Circuit Court

Two ordinances regulating the transport and storage of hazardous waste materials were challenged by the waste carrier, and the trial court determined that sections of the ordinances were void on grounds of the Commerce Clause and federal preemption, while the remainder was valid. On appeal, the court vacated that order, holding that Anne Arundel, Md., County Code § 11-408(g)(1)(ii) was invalid in its entirety because it overtly discriminated against articles in interstate commerce by prohibiting the transport of waste only from outside the county. The ordinances' licensing and inspection requirements to transport waste were also invalid because they imposed a direct and substantial burden on interstate commerce. The county's objective in determining the volume and types of waste being transported could have been accomplished by other less burdensome means. However, the court agreed with the trial court that the remainder of the ordinances requiring a license and cargo manifest for the deposit of hazardous waste was a valid regulation because it did not discriminate against waste from outside the county and did not pose an unreasonable burden on interstate commerce.

Appellate Court Records:

COURT OF APPEALS (Opinions) Browning-Ferris v. Anne Arundel County, 1980, September Term, case no. 151, MdHR 50,163-4 [MSA S393-389, 1/66/7/34]

COURT OF APPEALS (Records and Briefs) Browning-Ferris v. Anne Arundel County, 1980, September Term, case no. 151 [MSA S1733-2561, 1/64/5/47]

COURT OF APPEALS (Misc. Papers) Browning-Ferris v. Anne Arundel County, 1980, September Term, case no. 151, MdHR 50,021-10 [MSA S397-310, 1/65/12/24]

Trial court records -

ANNE ARUNDEL COUNTY CIRCUIT COURT (Equity Papers) 1978, Box 263 Case No. 27364 [MSA T71-578, 3/43/10/26]

Need to locate trial court docket.

Maryland Port Administration v. QC Corporation, 310 Md. 379, 529 A.2d 829 (1987)

See MSA SC 5339-209-25 (All trial and appellate records have been scanned and posted.)

The property owner was a chemical processing corporation located near a hazardous waste landfill. It alleged that it was forced to cease its operations at that site because chrome particles from the landfill blew onto its property. The concentration of chrome in the air at the chemical processing plant did not exceed permissible amounts under applicable regulations. The court reversed the inverse condemnation judgment, holding that the property owner had not suffered a significant degree of interference with the business. The court held that where there was no physical invasion of the property, no taking was effected by consequential damages; rather, the impact on the owner's property had to be special to it and of a high degree.

Maryland Waste Coalition, Inc. v. Maryland Department of the Environment, 84 Md. App. 544, 581 A.2d 60 (1990)

September Term 1989 No. 1829
Appeal from Baltimore City Circuit Court

The matter before the court concerned the granting of two permits by the Maryland Department of the Environment (Department) to a corporation to construct and operate an infectious medical waste incinerator. The trial court dismissed the action filed by the environmental corporation. The environmental corporation contended under Md. Code Ann. Envir. § 9-263 it was entitled to obtain judicial review of the issuance of the permits. The court concluded the environmental corporation had not met all of the criteria necessary for judicial review. The court held the issuance of a permit was not an order of the secretary and that § 9--263 did not provide the authority for the environmental corporation to proceed on appeal. The environmental corporation argued it was entitled to judicial review of the issuance of the two permits under Maryland's Administrative Procedure Act Md. Code Ann. State Gov't Code § 10-201 et seq. (1984). The court determined the environmental corporation was without standing. The court determined the environmental corporation might have standing to pursue an appeal under Md. Code Ann. Nat. Res. §1-502 et seq. (1989).

Appellate Court Records:

COURT OF SPECIAL APPEALS (Opinions) Maryland Waste Coalition, Inc. v. Maryland Department of the Environment, 1989, September Term, case no. 1829, box no., 6 [MSA T1328-21, 1/68/11/59]

COURT OF SPECIAL APPEALS (Misc. Papers) Maryland Waste Coalition, Inc. v. Maryland Department of the Environment, 1989, September Term, case no. 1829, box no. 19 [MSA T1327-64, 1/67/10/49]

Trial court records -

Case Search entry

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) 1989, Box 504 Case No. 89279037/CL103677 [MSA T2691-3140, OR/11/4/82]

Medical Waste Associates, Inc. v. Maryland Waste Coalition, Inc., 327 Md. 596, 612 A.2d 241 (1992)

September Term 1990 No. 163
Appeal from Baltimore City Circuit Court

The corporation argued that the appellate court exceeded its authority, or alternatively abused its discretion, when it invoked the Maryland Environmental Standing Act (MESA), codified at Md. Code § 1-502, even though MESA had not been addressed by the parties in the trial court. They also argued that the administrative proceedings were not contested cases under the Administrative Procedure Act, Md. Code § 10-201 et seq. They argued that the proceedings were legislative in nature and thus not subject to judicial review. Finally, they argued that the appellate court erred by taking the position that MESA could be applicable to an action for judicial review of an administrative decision and by remanding the case for a trial court determination of whether the coalition's actions could be maintained under MESA. The court reversed the judgment of the appellate court and affirmed the judgment of the trial court.

Appellate Court Records:

COURT OF APPEALS (Opinions) Medical Waste Associates, Inc. v. Maryland Waste Coalition, Inc., 1990, September Term, case no. 163, box no. 5 [MSA T1217-7, 2/30/5/75]

COURT OF APPEALS (Misc. Papers) Medical Waste Associates, Inc. v. Maryland Waste Coalition, Inc., 1990, September Term, case no. 163, box no. 4 [MSA T 1216-13, 2/30/5/74]

Trial Court Records:

Case Search entry

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) 1989, Box 473 Case No. 89261046/CL102907 [MSA T2691-3109, OR/11/4/51]

Artra Group, Inc. v. American Motorists Insurance Co., 100 Md. App. 728, 642 A.2d 896 (1994)

September Term 1993 No. 370
Appeal from Baltimore City Circuit Court

A property owner filed a complaint against the insured and other prior owners of the property and asserted claims for cost recovery, compensatory damages, and declaratory relief relating to damages allegedly incurred or to be incurred by the release and threatened release of hazardous substances. The insurer refused to defend or indemnify the insured against the property owner's action. The court held that the trial court erred when it determined that there was no duty to provide coverage. The court held that Illinois law was applicable because Maryland followed the lex loci rule. The court held that Illinois was where the contract was countersigned, and the countersignature was the last act necessary for the formation of the contract. The court held that there was no strong public policy in Maryland that compelled a contrary result. The court held that there was a duty to defend because the alleged conduct was not patently outside the terms of the insurance contract. The contract provided coverage for, and the complaint alleged, pollution caused by the sudden and accidental release of pollutants.

Appellate Court Records:

COURT OF SPECIAL APPEALS (Opinions) Artra Group, Inc. v. American Motorists Insurance Co., 1993, September Term, case no. 370, box no. 14 [MSA T1328-41, 1/40/6/24]

COURT OF SPECIAL APPEALS (Misc. Papers) Artra Group, Inc. v. American Motorists Insurance Co., 1993, September Term, case no. 370, box no. 3 [MSA T1327-110, 1/40/6/3]

Trial court records -

Case Search entry

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) 1992, Box 2095 Case No. 92120006/CL147805 [MSA T2691-4733, OR/12/16/39]

Bausch & Lomb, Inc. v. Utica Mutual Insurance Co., 330 Md. 758, 625 A.2d 1021 (1993)

September Term 1992 No. 56
Appeal from Baltimore County Circuit Court

Defendant was an insured who wanted to enforce coverage from plaintiff, its insurer, under a comprehensive general liability insurance policy for groundwater pollution discovered on defendant's industrial site. Plaintiff brought a declaratory judgment action seeking a ruling that it was not obligated to defend or indemnify. In addition to the actual clean-up expenditures, the trial court awarded defendant costs, expenses and attorneys' fees. The parties cross-appealed, and the judgment was reversed and a declaratory judgment was entered in favor of plaintiff. On appeal, the court held that in the absence of third-party property damage, the plaintiff was not obliged by the standard terms of the comprehensive general liability contract to pay defendant's abatement expenses incurred at the State's behest. Under its insurance contract with plaintiff, defendant's cost of compliance with State regulations represented an economic loss apart from third-party property damage.

Appellate Court Records:

COURT OF APPEALS (Opinions) Bausch & Lomb, Inc. v. Utica Mutual Insurance Co., 1992, September Term, case no. 56, box no. 5 [MSA T1217-12, 2/71/8/15]

COURT OF APPEALS (Misc. Papers) Bausch & Lomb, Inc. v. Utica Mutual Insurance Co., 1992, September Term, case no. 56, box no. 1 [MSA T1216-23, 2/71/9/9]

Trial court records -

Case Search entry

The court renumbered cases in 1995 and MSA finding aids contain the old case numbers. According to the Court, the old number for this case is 87CG4860. There is no indication that MSA has received this file.

Mayor and City Council of Baltimore v. New Pulaski Co., LLP, 112 Md. App. 218, 684 A.2d 888 (1996)

September Term 1996 No. 168
Appeal from Baltimore County Circuit Court

Ordinance No. 128 (the Moratorium) prohibited the construction, reconstructions, replacement, and expansion of incinerators within the city for a period of at least five years. The court held that the Moratorium was preempted by state environmental laws. According to the court, the trial court had proper jurisdiction to declare the Moratorium void because the partnership exhausted any available administrative remedies. The court determined that the Maryland's statutory schemes under Md. Code Ann., Envir. § 9 impliedly preempted the Moratorium. According to the court, § 9 illustrated the Maryland Department of the Environment's (MDE) exclusive authority over the issuance of permits required to install or alter incinerators. Furthermore, the court held that the MDE was vested with final authority to review, approve, and demand revisions in all proposed county solid waste management plans. Finally, the court determined that the Moratorium was not a preexisting local law at the time the state law was enacted.

Appellate Court Records:

COURT OF SPECIAL APPEALS (Opinions) Mayor and City Council of Baltimore v. New Pulaski Co., LLP, 1996, September Term, case no. 168, box no. 1 [MSA T1328-61, OR/19/3/41]

COURT OF SPECIAL APPEALS (Misc. Papers) Mayor and City Council of Baltimore v. New Pulaski Co., LLP, 1996, September Term, case no. 168, box no. 2 [MSA T1327-158, OR/19/4/46]

Trial court records -

Case Search entry

The court renumbered cases in 1995 and MSA finding aids contain the old case numbers. According to the Court, the old number for this case is 95CV5562.

BALTIMORE COUNTY CIRCUIT COURT (Civil Papers) 1995 Box 529B Case No. 95CV5562 [MSA T697-5837, CW/9/30/29]