

File No. 25126 Continued.

things capable of that mode of distribution." * * *
 * * * "Subject to these and other like rights of the municipality and the public to the use of a street for street purposes, the owner of the fee in the bed of the street possesses the same right to demand compensation, for additional servitudes placed thereon, that the owner of the bed of the highway in the country is entitled to. If, then, the fee in the bed of the street be in the appellee, the planting of the pole was an additional servitude imposed upon her land, for which she could claim compensation, and the Act of Assembly could not deprive her of it. But in many instances the beds of the streets are owned in fee by the city, and in others the fee is vested in the original owners of the land or their heirs, and does not belong to the owners of the lots abutting on the streets. If the fee be in the city, or in some third person, then, first, what are the rights, in a case like this, of the owner of a lot abutting on the street? and, secondly, how are those rights affected by the provisions of the Code relied on in the pleas? There is some diversity of opinion in the decided cases upon the first of these questions, but all agree in going at least this far - and we are not required to go any farther in deciding this appeal - that where the fee or legal title has passed from the original proprietor, as in cases where the land has been acquired for streets by the exercise of the right of eminent domain, the adjoining owner cannot maintain an action for injuries to the soil, or ejection but he nevertheless has a remedy for any special injury to his rights by the unauthorized acts of others."

74th Md. 48.

In none of these decisions is there a single word about beds of streets held in fee or by dedication.

Elliott on Roads and Streets - 3rd Addition, Sec. 1, Par 483, pp. 537 (Quoted in Farmers vs. Myers, 106 La. 333-30-50-858,862):-

"But as elsewhere shown, by growth of population, the extension of the City limits or the like, a rural road may become a city street and subject to servitude as such without constituting an additional burden or entitling the abutter to additional compensation."

* * * Par. 495 - pp. 407. "The easement which the municipal corporation acquires is broad enough to authorize the corporate officers to make any legitimate use of the street which does not impair its character as a public way or interfere with its free and unobstructed use. The owner who dedicates ground for a street creates an easement extensive enough to permit the city to make any legitimate public use of it which does not impair the right of passage or the right of ingress and egress to and from adjoining property. The easement acquired is by no means confined to the right of passage or travel, for it is matter of common knowledge and therefore, of law, that land acquired for a public easement is subject to all the burdens incident to the easement. If the public corporation owns a fee, the question of what it may do with its own property is usually to be determined as if it were a private owner in a like situation; but where it owns an easement it owns whatever is essential