

File No. 25126 Continued.

to the full enjoyment of that easement, and the question, so far as it effects this phase of the subject, whether it owns the fee or an easement, is of little consequence. If it owns the dominant estate it is entitled to use and enjoy all the incidents of that estate."

Judge Dillon says: "It will never do to hold that a municipality vested with the control of streets, and charged with the duty of preserving the public health, promoting the public convenience and of making provision to extinguish fires, may not, if it deems it expedient, construct a subterranean sewer or reservoir in the middle of the street without the assent of the opposite-lot owners."

"The learned author is undoubtedly right, for the question is not whether the municipality owns the fee, but what is the extent of its easement? Whatever easements of like nature vest in the owner of the dominant estate are vested in the municipality, and it may make any use of the way it deems expedient, provided it does not use the way for a purpose foreign to that for which it was set apart, but using it for sewers, cisterns and the like is not foreign to the purpose which the land was dedicated or condemned. The easement in a city is so broad and exclusive as to leave very little, if any, private right of use in the owner of the servient estate."

Also following:

Opinion of C. S. Vol. 1 - Aug. 10, 1903.

Q. The Western Union Telegraph Co. and Postal Telegraph Co. are assessed on telegraph poles and wires, in the annex. What rate applies?

Mr. W. Cabell Bruce's answer was "full taxation".

U. R. & E. Co. vs. Balto., 93 Md. 630-635.

Opinion of C. S. Vol. , page 527 $\frac{1}{2}$ - margin 1370.

Private streets - poles not taxable.

Page 1136 Margin 2812.

Vol. 9 - C. S. page 2546 - March 1, 1908.

Bernard Garter, Bruce & Ritchie - cannot tax poles on N. Charles st. - no dedication or ownership - still private property.

The next question is what rights has the City to the streets of the new annex and do the ordinances passed prior to January 1st, 1919 apply to the new addition.

ACT OF 1918 - CHAPTER 82.
Extension of City Limits

Sec. 8-10 - Subject to location.