

File No. 25126 Continued.

Solicitor's Opinions, page 2546, dated March 1st, 1908, Bernard Carter W. C. Bruce and Albert C. Ritchie concurred in the opinion that poles on N. Charles street could not be taxed. The facts in the case were as follows:-

At that time Charles street was in the hands of a toll company and no dedication had been made of the street above Twenty-fourth street. Mr. Ritchie at first ruled that all poles along Charles street from North avenue to the City limits could be taxed. However, there was an agreement between the Toll Company, the City and the C. & P. Telephone Company about taxation on these poles. It was at this time that Messrs. Carter, Bruce and Ritchie changed their opinion and said that all poles on Charles street north of North avenue to Twenty-fourth street could be taxed because a dedication of this portion of the street had been completed.

In answer to the third question I would say that the provisions of the Baltimore City Code ( Pielert's Revision) which are applicable to this case are Secs. 38-42, Art. 41, pp. 1210-1212.

Section 38 requires all corporations using poles on any streets lanes or alleys in the City of Baltimore to file with the Collector of Water Rents & Licenses a list of all poles so used, and for failure to file such a list, the corporation is made subject to a penalty of not less than Ten Dollars, and One Dollar per day for every day it fails to furnish the said list after written notice to furnish it shall have been given by the Collector of Water Rents and Licenses.

Sec. 42 requires corporations using poles on any streets, lanes or alleys of the City to file a list of all said poles, and imposes the penalty of \$10.00 for the failure to file said list, or to comply with the provisions of Sec. 39 of said Article.

Two penalties, therefore, seem to be imposed by the ordinances. The one by Sec. 38, which provides for a penalty of Ten Dollars, and One Dollar for every day that the list is not filed. And the other by Sec. 42, which imposes a penalty of Ten Dollars for each pole which has not been mentioned in the list, or for which the license has not been issued.

The correspondence makes it clear that the C. & P. Telephone Company has used the poles in the new annex and is, therefore, subject to both penalties; under Sec. 38 for not having filed a com-