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Bill states that the Plaintiffs is seized and possessed in fee of certain real Estate within the Corporation of Frederick City, and that the Defendants have condemned a portion of said land for public uses and have entered upon the same and taken possession thereof, and are digging up and hauling away the soil; all of which allegations are fully set forth in the Bill and are admitted by the Defendants in their Answer. Now do the facts as set out by the Bill make out such a case as justifies or warrants this Court in interposing by way of Injunction in restraining them from further proceedings? Or in other words are the averments in this Bill sufficient to justify an Injunction?

The general doctrine is that where the injury complained of is irreparable or destructive to the property or to the permanent ruin of the property; destructive to the inheritance; or where the mischief goes to the destruction of the Estate in the character in which it is enjoyed by the Owner "Courts of Equity will interfere by injunction in furtherance of justice and the violated rights of the Party

2nd Story Equity Sec 926 1st Md Rep. 525 &c. 5 Md Rep. 408 &c

We think the Averments of the Bill are of this character and must be taken as true because they are admitted in the Answer of the Defendants, And being thus stated And admitted it is the duty of the Court to determine whether these facts Amount to or make out a Case of irreparable injury or bring this case within the General doctrine just stated. A Careful Examination of the Allegations of the Bill brings us to this Conclusion and although the Bill does not in so many words allege the injury to be irremediable still the facts stated show an injury of this character and in our opinion show a clear case for an Injunction —

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But the Defendants Contend that Even admitting this to be true they have the right under the Act of 1847 ch. 224 being a public Corporation, to do what is Complained of by Plaintiff

This brings up the question whether said Act of 1847 is still in force and is now a part of the Defendants Charter —

The Town of Frederick was made a Body Corporate by the Act of 1816 Ch. 74 In the 2d Volume of the Md. Code Page 339 the Charter of said Corporation is Codified and the said Act of 1847 Ch. 224 is Omitted.

The Commissioners were appointed to revise and codify the laws of the State and in the performance of this duty the Act of 1847 was left out of the Code as reported to and adopted by the Legislature and we think intentionally. Being an Act originally for a specific object and passed at the request of certain Citizens and not having been acted on or accepted by the Corporation and not being Embodied in the new or revised Charter, we think it is repealed and no longer in force. The repeal of this Act does not deprive the Corporation of any of its rights & privileges but it is still possessed of all its Corporate rights, powers, and franchises, And Even if it did deprive the Corporation of some of its powers, the Codified or subsequent Charter has been accepted and acquiesced in by the Corporation as will appear by the Act of 1864 Ch. 1. Amending the Codified Charter.

The powers of Municipal Corporations are subject to the Control of the Legislature 2 Kent 274. 13 Wendel 329 &c. and the Legislature had the right to Amend and alter this Charter.

The Defendants Contend that the Existence or non —