

File No. 27723 Continued.

on Baltimore Street acquired property directly in the rear fronting on Fayette street and about thirty-five feet from the property of the Townsend Grace Company. Townsend Grace Company objected to the validity of an ordinance authorizing Mr. Epstein to construct bridge-ways over Garrett street connecting the property on Baltimore street with the property on Fayette street, on the ground that such bridge-way would obstruct the light and air in the rear of their premises.

This question was taken up and discussed at length by the Court and it was held that the ordinance granting Mr. Epstein the right to erect this structure was invalid on the theory that the owner of land abutting on a street has an easement in and over the street and that an ordinance granting to a private party a privilege which interferes with this right is invalid for the reason that it is appropriating to private use an existing public highway dedicated to public use. This opinion was confirmed in *Brauer vs. Refrigerating & Heating Company*, 99 Md. 367.

I do not wish the Board to understand that the ordinance is in itself invalid. It is only invalid in the sense that it cannot be enforced against the protest of an abutting property owner.

Very truly yours,

(Signed) Roland R. Marchant,
City Solicitor.

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