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93 Md. 638, 49 A. 1134

Court of Appeals of Maryland.
BALTIMORE BELT R. CO.
v.
MAYOR, ETC., OF BALTIMORE.
June 14, 1901.

*1134 Appeal from Baltimore city court; George M. Sharp, Judge.

Action by the Baltimore Belt Railroad Company against the mayor and city council of Baltimore. From a pro forma order and judgment of the Baltimore city court, dismissing plaintiff's appeal from a ruling of the appeal tax court of Baltimore, plaintiff appeals. Reversed.

Argued before McSHERRY, C.J., and FOWLER, BRISCOE, BOYD, PAGE, PEARCE, and JONES, JJ.

Hugh L. Bond, Geo. Dobbin Penniman, and Frederick J. Griffith, for appellant.
Wm. Pinkney Whyte and Chas. W. Field, for appellee.

PEARCE, J.

This is an appeal by the Baltimore Belt Railroad Company, against the mayor and city council of Baltimore, from a pro forma order and judgment of the Baltimore city court, dismissing an appeal filed by the railroad company, under section 170 of the new charter of Baltimore, from a ruling made by the appeal tax court of Baltimore, fixing the rate at which certain portions of its right of way in that part of the city annexed under chapter 98 of 1888, and known as the "Belt," should be taxed for city purposes for the year 1900. The question involved is the same considered and decided at this term in the case of [United Railways & Electric Co. of Baltimore v. Mayor, etc., of Baltimore, 49 Atl. 655](#). This case was tried upon an agreed statement of facts similar in all

respects, except as to the mileage concerned, to the agreed statement of facts in the case just mentioned, and the two appeals were argued together in this court. Of the total mileage of this road, 3.19 miles are located within the belt, and, of these 3.19 miles, 2.35 miles are situated in portions which have no avenues, streets, or alleys opened or constructed through the same, and where the blocks of ground through which the road runs have not, on each of them, six dwellings or storehouses ready for occupation. It is clear that this case must be determined upon the same reasons and considerations which governed us in the decision of the appeal of the United Railways & Electric Company of Baltimore. It does not appear in the record, though it was stated without objection at the argument, that the Baltimore Belt Railroad is a steam road, beginning at Camden station, in the central part of the city, and running to Bay View Junction, in Baltimore county, a little beyond the city limits, and that it forms a part of the trunk line between Washington and New York, having no station within the belt, and practically no local travel whatever. This is, therefore, a weaker case than that of the United Railways & Electric Company, since the argument based upon the consideration of local travel, which was made and considered in the former case, cannot be made here. For the reasons given in the appeal of the United Railways & Electric Company, the order and judgment of the Baltimore city court in this appeal will be reversed, and the cause be remanded, to the end that an order may be passed directing and requiring the comptroller of the city of Baltimore to repay to the petitioner the sum of \$504.96, with interest thereon from the date of the payment by the petitioner; that being the difference between the amount paid and that which should have been paid. Order reversed, and cause remanded, with costs to the appellant above and below, that an order may be passed in conformity with this opinion.

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