

File No. 5754 Continued.

OPINION.

LAW DEPARTMENT.

Baltimore, June 8, 1907.

Hon. W. Cabell Bruce,
City Solicitor,
City.

Dear Sir:-

4279

In my letter of the 5th inst. to you I failed to express an opinion as to whether or not a macadamized street is to be regarded as a paved street within the meaning of the ordinance authorizing the City Engineer to require brick sidewalks to be laid on paved streets. This question has been submitted to the Courts of other states, and it appears that the word "pave" includes macadamizing unless the purposes of the statute or ordinance under construction makes such interpretation unreasonable. Cases in which the question has been considered are referred to in the American and English Encyclopaedia, Vol. 19, page 603 and in the recent work entitled "Words and Phrases Judicially Defined", Vol. 5, page 4265. I find nothing in the ordinance of this City preventing the construction which is ordinarily given by the Courts to the word pave in relation to macadamized streets. In Article 35, Sections 77 to 82 inclusive, will be found provisions for selection of the pavements to be used on the streets of the City. In Section 79 is specified the kinds of pavements to be regarded as embraced in the term "improved pavement". In Section 82 it is provided that nothing contained in the five preceding sections is intended to prevent the macadamizing of streets, avenues, lanes or alleys in the annex, under certain conditions therein mentioned.

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It appears to me that the incorporation of this provision in reference to macadamized streets &c., is an indication of the view of the Mayor and City Council, that a macadamized street is to be regarded as a paved street.

Very truly yours,

(Signed) Joseph S. Goldsmith,
Assistant City Solicitor.