

6361
File No. 19815 Continued.

is the title to this new land, and the method of determining matters of title is by an action of ejectment. However, if this bill be considered a bill quietmet, of course, equity has jurisdiction. In order to maintain a bill quietmet, one must have,

"a clear, legal and equitable title to land, connected with possession."

Miller's Equity section 716.

Baltimore City claims a clear legal title by reason of its rights as riparian owner, and has, at least, the constructive possession of the land, which is a sufficient possession.

Baumgardner vs. Fowler, 82 Md. 631, 641.

I can see nothing that can be accomplished by a delay in meeting the issue involved in the premises. It would be more advantageous to go into equity than to proceed by a suit in ejectment, and as Mr. Bruns might, at any time, go in and take an actual physical possession of this land, and thereby oust the City of its constructive possession, and thereby defeat an equitable action, the matter might be proceeded with at the present with no disadvantage to the City. Of course, I am aware of the advantage that a defendant usually has in a suit in ejectment; the plaintiff must recover on the strength of his own title and not on the weakness of the title of the defendant. But by reason of having a patent, Mr. Bruns would have no difficulty in making out a prima facie case, and then by the lapse of the usual time a prescriptive right might supplement the patent right, and raise an additional difficulty.

My conclusion in the matter, therefore, is that a present action would not be disadvantageous to the City.

Yours very truly,

(Signed) George Washington Williams
Special Assistant.