File No. 530 Continued.

OPINION.

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Mr. Thomas, the newly elected Surveyor, contends that the taking of levels is a necessary part of the establishment of grades, and is work appertaining to the business of a surveyor. Mr. Fendall, on the other hand, contends that the taking of levels is no part of the business of a surveyor; that a man may be able to take levels and yet not be a surveyor, and that a completent surveyor may not know how to take levels. Of course, if Mr. Fendall is correct, that ends the matter, and he can be under no obligation to employ the City Surveyor. Mr. Fendall, however, admits that the question is at least open to discussion, and, without, of course, laying claim to any technical knowledge on the subject, it would seem to me that the taking of levels is work appertaining to the business of a surveyor. I will, therefore, assume that the taking of levels is work appertaining to a surveyor's business.

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On this assumption, it is, I think, clear that the taking of levels for grade establishments, being work appertaining to the business of a surveyor, is work for which the City Engineer may, if he chooses, call upon the City Surveyor; but the question presented is, must he do so? Mr. Fendall contends that he already has a number of assistants in his Department who are fully capable of doing the work, and these men would do the work without any compensation therefor other than their regular salaries, so that the City would thus be saved surveyor's fees, and this is the way that the work has in fact been done for a great many years.

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After a careful consideration of the question, I have reached the conclusion that the City Engineer need not employ the City Surveyor in grade establishments unless he desires to do so.

Engineer to employ the City Surveyor whenever he requires the services of a surveyor. Section 2 puts no obligation whatever on the City Engineer. It only makes it the duty of the City Surveyor to do and perform all such acts appertaining to the business of a surveyor as may be reasonably required of him by the City Engineer. In other words, if the City Engineer wants the services of the City Surveyor about any matter appertaining to the business of a surveyor, then the City Surveyor has no choice but to give his services, provided the requirement is reasonable; but no reciprocal duty is placed upon the City Engineer to employ the City Surveyor for all surveying he may require, or, indeed, for any surveying. The acts appertaining to the business of a surveyor which