

File No. 5726 Continued.

OPINION.

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same section, and by the language of the other sections so as really to limit the applicability of Sections 94 to 100 to the payment and collection of the cost of assessment merely. If this is not correct, then the effect might be to nullify the provisions of Sections 86 to 88 of Article 35, because if all the provisions of Sections 94 to 100 of Article 35 are to be followed, then an entire year might elapse before the City Engineer could proceed to pave, and the nuisance might continue in an aggravated form entailing injury upon the inhabitants of the City.

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Under these Sections of the Code, before the City Engineer can proceed to pave, the City Register must advertise for four weeks; ten days further must elapse, and then the right to appeal to the Baltimore City Court and to the Court of Appeals follows. The delay which might ensue could really prevent Sections 86 to 88 from accomplishing the results for which they were designed. If, on the other hand, the City Engineer be limited merely to the notice and hearing provided for in Section 86, no damage will be done to anyone, as the right of appeal will exist in reference to the payment and collection of the assessment, and if it be determined that the City had not the right to pave the street then the cost must be paid by the City itself.

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I therefore conclude, that the City Engineer has the right to pave after following Sections 85 and 86 of Article 35 of the Baltimore City Code of 1906, and that he need not wait until the formalities prescribed by Sections 94 to 100 of Article 35 of the Baltimore City Code of 1906 have been pursued.

Very truly yours,

(Signed) Sylvan Hayes Lauchheimer,
Assistant City Solicitor.

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LAW DEPARTMENT.

Baltimore, January 9, 1907.

B. T. Pendall, Esq.,

City Engineer.

Dear Sir:-

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Replying to your letter of the 7th inst., making certain inquiries of me with reference to the paving of private streets and alleys, I enclose herewith a report dated the 9th inst. from Mr. Lauchheimer, Assistant City Solicitor, to myself, with reference thereto.