

File No. 7859 Continued.

OPINION.

that whenever the Commissioners for Opening Streets, acting as the Annex Improvement Commission, should take steps in accordance with the act, they alone should proceed, and the City Engineer, or any other department of the City, should not interfere.

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Section 6, Chapter 274 of the Acts of 1904, specifically provides, "No money shall be expended by said Commission to pay for the improvement of sidewalks in said Annex, but same shall be done at the expense of the owner, or owners, of property along and upon the streets, avenues or lanes on which the said sidewalks are to be placed. Authority is given said Commission to assess said property for the cost and expense of said sidewalks, and to collect the same as now prescribed by law or ordinances".

Construing this section of the Act in connection with the other sections of the Act, it seems clear that by this section it was intended to impose upon the abutting owners the cost of improvement, and that whenever the Annex Commission paved the roadway, the cost of improving the sidewalks was to be borne by the abutting owners, and not by the City. Not only does this conclusion flow from a consideration of the Act, itself, but a consideration of the reasons for the enactment of the Act, the objects sought to be accomplished and the long continued policy of the City requiring the abutting owners to pay the cost of grading the sidewalks, make it apparent to have been the intention of the Legislature to continue this policy, and to give it the force of law, as far as the Annex is concerned, or at least those parts of the Annex in which the Annex Improvement Commission is performing its duties.

In the light of these considerations, I now proceed to answer the questions propounded in the resolution.

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1. Chapter 274 of the Acts of 1904 does not merely forbid the Commissioners for Opening Streets from using any annex loan for grading the sidewalks, but makes it the duty of the abutting owners to pay the cost of grading said sidewalks.

2. By a proper construction of Chapter 274 of the Acts of 1904, the Mayor and City Council of Baltimore is deprived of the power to pay for the grading of sidewalks in those portions of the annex in which the roadways are being improved under said Act. The said Act does not apply to any portion of the City other than the annex.