

File No. 7869 Continued.

OPINION.

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3. The inhibition in Chapter 274 of the Acts of 1904 applies to the Commissioners for Opening Streets, and to the specific fund found embodied in the Annex Loan, but the said Act places the duty of improving the sidewalks upon the abutting owner.

4. Chapter 274 of the Acts of 1904 takes from the City the power and right to authorize the City Engineer, at the cost of the City, to grade its sidewalks in the annex which are on streets, which are being improved by the Annex Commission.

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5. The policy of making property owners pay for grading the sidewalks in the annex finds warrant in Sections 29, 30 and 31 of Article 35 of the City Code (Pielert's Edition); this is simply the latest expression of the Municipal will, as the municipal officers, in charge of this class of work state that they have no recollection of the time when the work of this character has been done, at the expense of the City.

These sections of Article 35 of the City Code are not the present cause of the policy in reference to the Annex Act, but the Annex Act, itself, controls as far as the Annex is concerned.

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(6) Sections 30 and 31 of Art. 35 of the City Code (Pielert's Edition) do not control the policy, as far as the Annex is concerned; this being controlled by the Annex Act, itself, which Act is not subject to amendment by ordinance.

7. Chapter 274 of the Acts of 1904, which is the latest expression of the Legislative will, provides for the doing of this work by the Annex Improvement Commission, and the Act, itself, contemplates that the Annex Improvement Commission should do this work, and not the City Engineer.

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8. In view of the provisions of Chapter 274 of the Acts of 1904, the City Engineer has no right to do this work during the existence of the Annex Improvement Commission.

9. If the conditions in the Annex, in reference to the grading of pavements on the streets where the Annex Improvement Commission is improving the roadways, are controlled by Chapter 274 of the Acts of 1904, which requires the abutting owners to pay the expense of improving the sidewalks, then this condition could not be altered by any ordinance of the Mayor and City Council of Baltimore.

Very truly yours,  
(Signed) Sylvan Hayes Lauchheimer  
Assistant City Solicitor