

conformed to.

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The question which the City must now decide is, shall the grades established in 1906 for the streets which cross the Reisterstown Turnpike be conformed to or not; if they are, then the existing grade of the Reisterstown Turnpike must be changed; if they are not to be conformed to, then the Reisterstown Turnpike can be left as at present, and the grades of the cross streets changed so as to conform to it. This is a practical question with regard to which I do not see that the Law Department can give much assistance.

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If, however, the proper city officials decide that the grades established for the cross streets should be adhered to, then this, of course, would mean that the turnpike must be graded according to the establishment made by the City Surveyor in 1906, and in this connection two questions arise:

- (1) Can the Turnpike Company be compelled by the City to change its grade at all.
- (2) If it can, then must the City or the Turnpike Company bear the cost.

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In connection with the first of these two points, Mr. Goldsmith and I think that there is room for the contention that the Reisterstown Turnpike is a public street, or highway, subject only to the easement of the Turnpike Company to collect toll. And, if this is correct, then it would seem to follow that the City could cause the Turnpike to be regraded just as it can cause any other street or highway to be regraded. This point is possible, because of the fact that the Reisterstown Turnpike was originally a public county road, and Mr. Goldsmith's argument is, that the grant of the Legislature to the Turnpike Company did not change the public character of the road, but simply placed upon it an easement for the collection of tolls.

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The point is a new one and a somewhat difficult one, and it is impossible to predict how the Court of Appeals would view it. Therefore, all that can be said at this time is, that the City would have a good fighting chance to compel the Turnpike Company to regrade its turnpike.