

File No. 12327 -Continued.

the Board of Estimates can sufficiently authorize the condemnation proceedings for street openings, without an Ordinance. I do not, however, think that the proper construction, because we would have to ignore the provision of Section 4 which relates to acquisition of property for improvements other than streets, in which it is expressly declared that no Ordinance shall be required.

I conclude, therefore, as to the matter of necessity for an Ordinance, that no Ordinance is required for any improvements, except the opening of streets, and that the proper course for street openings is the adoption of a plan by the Harbor Board, the approval of such plan by the Board of Estimates, and the subsequent submission to the City Council of an Ordinance for approval of the aforesaid plan.

I beg to call your attention again to the fact that that it is provided in Section 4 that no preliminary notice shall be requisite after prior authorization and approval of the Board of Estimates.

The question now arises whether that provision dispenses with the necessity for preliminary notice, before the passage of an Ordinance, as is usually necessary for a street condemnation.

While the meaning of the provision above referred to is not quite clear, the notice preceding the introduction of the Ordinance is the only notice which is usually characterized as a preliminary notice in connection with street openings, and probably it was intended that such notice should be dispensed with.

As to the matter of purchasing property while condemnation proceedings are pending, it seems to me that no valid objection could be offered to the purchase of property under those conditions, subject however, to the following restrictions:

The Commissioners should award for any property purchased the exact amount paid for it by the City.

After the final return of the Commissioners has been made up, and especially after the Book has been deposited in the Office of the City Register, no purchases should be made by the Harbor Board at any prices other than the exact amounts awarded for the properties in the condemnation proceedings.

I proceed now to the consideration of the question whether or not the City Surveyor must draft the condemnation plats and establish