

File No. 12327 Continued.

the improvement of the water front of, adjacent to and along, the Patapsco River and its-tributaries", within the limits of the City of Baltimore.

Is the establishment of grades essential in projecting the contemplated improvements? I infer from the inquiry of the Harbor Engineer that such establishments are essential. If so, does not the power to determine upon the grades pass with the grant of other powers, under the Act, and to the same officials to whom they were committed? If it is intended by the Act that the Harbor Board shall devise the plans, and the devising of the plans involves the determination of the grades, was it intended, in passing the Act, that the City Surveyor should have the power to completely veto the plans so devised, by refusing to establish the grades as determined upon by the Harbor Board? If it was not intended to provide for such a conflict, then either the City Surveyor must be entirely excluded, or he is entirely divested of his discretion, and can do nothing but approve the action of the Harbor Board, which latter would, of course, involve only a waste of time and money. It seems to me likely that the Legislature intended that the work of the Harbor Board should be complete, without interference from the City Surveyor.

I referred above to a provision which requires the City Engineer to refer to the City Surveyor all matters of establishment of grades. There is no provision in the Code which requires the Harbor Board to consult the City Surveyor in reference to grades, and apart from the provision relating to the City Engineer in the establishments of grades, the matter of determining the duties of the City Surveyor is left to the Mayor and City Council of Baltimore. If the Harbor Board should present a plan which involves not alone the location of a proposed street, but also the grades of the street, and the City Council approve the plan, it seems to me that such approval would show clearly an intention on the part of the City Council to eliminate the City Surveyor from such a matter.

It is manifest that the question now under consideration is not free from difficulty. Section 5 provides that proceedings under the Act for grading, paving and curbing streets, avenues, lanes or alleys, &c., after the authorization and approval of the Board of Estimates, "shall be instituted, prosecuted and conducted by such