

File No. 12639 Continued.

Howard Streets.

It appears that Swift and Company propose to build at that corner and have filed plans to that end with the Building Inspector.

These plans call for an excavation extending ten feet below the curb line, and such excavation, if made, will in all probability cause the adjoining building to fall, unless it shall be protected by proper underpinning.

Swift and Company have notified the owner of the adjoining building, known as No. 124 S. Howard Street, (the owner being Mrs. Henry Jones Ford), to protect her building. She has retaliated by filing a bill for an Injunction against Swift and Company in the Circuit Court of Baltimore City, in which Bill she alleges that she has acquired by prescription an easement in a four foot alley which is included within the boundary of Swift and Company's record title.

She further alleges that the proposed building and excavation will extend to this four foot alley over which she has an easement.

Swift and Company have answered the Bill denying its allegations and the case has been referred to an examiner to take testimony.

Under these circumstances, Swift and Company, through its counsel, Mr. Alfred J. Carr, has demanded of the Building Inspector that he proceed under Ordinance No. 155, (known as the Building Code), Section 16, Paragraphs 11 and 12 to do the necessary underpinning.

These paragraphs of the Building Code provide, that, when an owner of property shall receive notice from an adjoining owner of the latter's intention to excavate his lot and the owner so receiving notice shall fail to take proper steps to protect his property against the result of such excavation, the Building Inspector shall proceed to do the necessary underpinning and the cost thereof shall be paid by the property owner for whose benefit the work has been done.

The manifest object of this provision is to enable work to proceed without danger to the public, which would result from the neglect to do necessary underpinning, and in a proper case undoubtedly the Building Inspector would be justified in proceeding as directed. Here, however, there is a litigation pending between the