

various other agencies, such as the Department of Chesapeake Bay Affairs. This information is then presented to the Board with the recommendations of the secretary.

POLICY

According to the secretary, the Board sets all policy not set by the legislature in the management of government. The Board acts as a pre-auditing body which checks and controls the expenditure of money approved by the legislature in the budget. The secretary feels that such a check on governmental spending is necessary, that the Board is necessary for the protection of the people, and that it should be provided for in the constitution. Without the balance provided by the comptroller, a separately elected member, the secretary feels that the Board's effectiveness as a check on an irresponsible governor would be diminished. Members of the Board, if appointed, would be obligated to the governor and thus would not offer completely candid opinions either in the privacy of the Board or in public.

The secretary feels that the Board deals with many expenditures which could be handled by a service agency such as the General Services Administration in the federal government. In some instances, the Board has approved items costing less than fifty dollars, but such items are usually stated in a detailed request which the Board often approves perfunctorily.

Three cases at law are cited below to demonstrate the scope of the responsibilities of the Board of Public Works.

I. Brown v. C. & O. Canal Co., 73 Md. 567 (1890).

The canal company was insolvent. It resisted the appointment of receivers and insisted that there should be an immediate sale of the entire company. The

State, an intervenor, took the same position.

Interpreting Article XII, Section 3 of the Maryland Constitution the court said ". . . [T]he Board of Public Works, in the absence of express legislative authority, would have no power to waive or surrender a State's lien, or to make a contract for a deferred lien, on the property of any of the internal improvement companies of the State."²⁷

II. Bonsal v. Yellott, 100 Md. 481, 60 A. 593 (1905).

This was a suit to enjoin the State from expending any public funds to construct any road. The Court said that Article XII, Section 3 of the Constitution shows conclusively that the "works of internal improvement" intended were such as the State had been connected with or interested in as "stockholder," or "creditor"—such as had driven it to the very verge of bankruptcy and deprivation—and not such as every State government must have, either in its own name or in the name of its "political agencies," created for the better government of the affairs of the State.

III. Terminal Constr. Corp. v. State Bd. of P. W., (Cir. Ct. of Baltimore City), Daily Record, July 29, 1957.

The Board of Public Works is not required to invoke competitive bidding for contracts of public improvements and need not continue competitive bidding after once resorting to it. It may use its judgment, subject only to the interest of the taxpayer, and the courts will not interfere even if the Board is mistaken in its conclusion. Of course, when the Board acts with taint of fraudulent, collusive, or arbitrary conduct, its conclusions are subject to review.

²⁷ Brown v. C. & O. Canal Co., 73 Md. 567, 604, 605 (1890).