File No. 1 Continued.

OPINION.

Baltimore. June 18th 1903.

Bernard Carter, Raq.,

Of Solicitors of the Philadelphia,

Baltimore & Washington R. R. Co.,

Baltimore, Md.

Dear Sir:-

Referring to your communication of the 16th instant, I reply as follows:

In the case of the United Railways vs. Hayes, 92 Md. 490, the Railway Company applied to the Superior Court of Baltimore City for a mandamus, requiring the City Engineer to issue, and the Mayor to approve, a permit to the Company to tear up and open the hed of Wilkins Avenue from Brunswick Street to a point Westwardly, for the purpose of laying thereon tracks which one of the constituent Companies of which it was formed, had been authorized to lay by an Ordinance, passed before the adoption of the present City Charter.

It was conceded that, by various consolidations, the petitioner became entitled to all the rights, privileges and franchises, granted by this and other ordinances, provided that these Ordinances were not repealed by the adoption of the present City Charter.

In the course of its opinion, pp. 496 & 497, the Court said :

The only question then, is whether the Ordinances, prelied on, are inconsistent with the Charter of ethe City, and therefore repealed by implication "under the provision of the third section thereof, rehich provides that only Ordinances, not incomceletent therewith, are continued in force. In suhat respect are those ordinances inconsistent celts the new charter? It is true that the late CORPORAGO THE ROLL COMPANSOR HOW CANAL open for any privillese to lay tracks in any of cehe errecto, and that cortain other provious vere therein centained, giving the city the cight eto surcheno fremchisco at the expiration of a Secretal Fordon But these provisions ovadents Tropo Intonded to opply to the future. This re-CENTER BOTTON TO THE SOURCE STATE OF OR THE PROPERTY. Tereston which provides the the Chertor Chell The Base of American Base of Base of the Control For existing.

The case submitted to me by you, in my opinion, falls within the terms of this decision. By Section 1 of Ordinance No. 26, approved May 29th 1869; the Baltimore and Potomac Railroad Company (the corporate predecessor of the Philadelphia, Baltimore and Washington N. R. Company) was authorized, in the construction of Ste Railroad, to

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