

File No. 6564 Continued.

OPINION

LAW DEPARTMENT

Baltimore, July 15, 1902.

Hon. W. Cabell Bruce,
City Solicitor.

Dear Sir:-

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Replying to the inquiry of the Chief Engineer of the Sewerage Commission, contained in his letter of the 12th instant, relative to the claim of the Contractor in reference to compensation for the excavation of rock encountered in tunnelling, I herewith report as follows:

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Section 1 on Page 76 of the Specifications provides that no excavation shall be made in tunnel without the consent of the Engineer. Upon application this consent was given. Section 50 of the proposal blank set out on page 102 is as follows:- "For excavating rock or boulders of one-half cubic yard or more in volume, the sum of dollars (\$) per cubic yard (measured in excavation only)". My opinion, therefore, is that the case unquestionably, is one clearly covered by the specifications and form of proposal, and that the Contractor, so long as he excavates in tunnel, is entitled to receive for the rock actually excavated, the price specified in his proposal. If, in addition to the removal of rock, he also actually excavated earth, the contractor is entitled to receive such additional compensation as the contract calls for. It follows from this, therefore, that the contention of the contractor as set out in Mr. Henrick's letter is unfounded.

Very truly yours,

(Signed) Edgar Allen Poe,
Deputy City Solicitor.