

File No. 9021 Continued.

CORRESPONDENCE.

beginning of the track which will be laid by the Sewerage Commission?

Yours truly,

(Signed) Calvin W. Hendrick,

Chief Engineer.

P.S. I enclose blueprint of drawing showing our proposed track leading into the Pumping Station, and the B. & O. R. R. track in Canton avenue.

File No. 9021.

OPINION.

LAW DEPARTMENT.

Baltimore, November 14, 1908.

Edgar Allan Poe, Esq.,

City Solicitor.

Dear Sir:-

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As requested by your favor of November 7th, I have carefully considered Mr. Hendrick's letter to you of November 5th. The inquiries made by Mr. Hendrick are quite clearly stated in his letter so I will not repeat them here.

The B. & O.'s right to maintain and operate the switch from its President street track into Canton avenue and the track on Canton avenue as far as East Falls avenue is derived from Ordinance No. 276, approved May 13th 1907, which ordinance authorizes the B. & O. to construct a single track from its present track in President street, beginning at a point 56-1/2 feet north from the north side of Canton avenue and extending southerly with a curve to the right, into Canton avenue, the distance of 330 feet.

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1. The B. & O. cannot, in my judgment, be required to remove its track for the purpose of enabling the City to build its own track along Canton avenue. Ordinance No. 276 gives to the City, full power and regulation over the grant in question, but the power to regulate cannot include the power to destroy the grant altogether. Moreover, Section 7 of the Ordinance specifically provides that the franchise shall cease if, at any time, the President street track shall be removed or shall be acquired by the City for the