

tions having any tracks in or upon any street, the presence of which blocks or impedes the progress of the construction of the sewers, shall, at their own expense, remove or adjust the same upon reasonable notice from the Commission, so as to enable the sewers to be constructed.

3. Subject to the duty thus imposed upon the Railways Co. in connection with its tracks in any street in which a sewer is to be constructed, all the work of taking up the pavements and putting down the same in the street required for the construction of the sewer, is to be done by the Sewerage Commission.

It has been definitely determined by the City Solicitor's Department that it is not the duty of the Railways Co. to remove the pavement and earth, nor to replace the same; but that the extent of its duty is to remove its tracks where such removal is necessary, and replace the same at the proper stage of the doing of the work of the construction of the sewer; or, if it is not necessary to remove the tracks, to adjust them to the proper conditions of the street as brought about by the construction of the sewer. All the work so to be done by the Railways Co. must be done under the supervision of the Engineer or other proper officials of the Sewerage Commission, who has an accurate and detailed account of the elevations and alignment of the railway tracks, and is able, therefore, to judge as to their proper replacement; and the City Engineer has no function to perform in connection therewith, just as he has nothing to do with superintending the repaving done by the Sewerage Commission.

It is not his duty, therefore, to appoint any inspector of the work of the Railways Co. in replacing its tracks, and he cannot, of course, therefore, make any charges against the Railways Co. for the inspection of such work. It is not until the Sewerage Commission has restored the street to its paved condition (which does not take place until after the railway tracks have been replaced) that the superintendence or control of the City Engineer is resumed.

4. This conclusion necessarily results from the very fact that the work of constructing the sewers (which is to be done under the exclusive supervision and control of the Sewerage Commission) comprehends not only all the work connected with the disruption of the street