

File No. 9787 Continued.

OPINION.

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However this may be, when Ordinance 121, of May 18th, 1908, authorized the construction of the new Baltimore and Ohio track, I think it may fairly be said that this Ordinance carried with it the authority to the city officials to do whatever work is reasonably necessary in order that the express grant made by the Ordinance may be safely and properly carried out.

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I understand that the change in grade is necessitated solely because of the new track, which Ordinance 121 authorizes, and since the City, of course, intended the Baltimore and Ohio to construct the track under this Ordinance, I think that it may properly be said that the Ordinance, by implication, authorizes the City Engineer to make such changes in adjacent grades as the construction of the new track may render necessary and proper.

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I, therefore, think that Mr. Fendall is authorized to cause the proposed change in grade to be made, but in view of the fact that such authority cannot be said to be absolutely clear, I think that it would be entirely proper for Mr. Fendall to require, as a condition of the change, that all private property injuriously affected by it, should be taken care of, either by the United Railways or by the Baltimore and Ohio, and that the cost of the whole work should be similarly taken care of.

Very truly yours,

(Signed) Albert C. Ritchie,

Assistant City Solicitor.

File No. 9787.

LAW DEPARTMENT.

Baltimore, April 16th, 1909.

B. T. Fendall, Esq.,

City Engineer.

Dear Sir:-

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Replying to your letter of the 29th ultimo, asking me to advise you as to your power to direct a change in the grade of Ridgely Street at or near its intersection with Ostend street, I enclose herewith