

File No. 9986 Continued.

OPINION.

7646

Goldsborough that the Commissioners had no objection to the change, and this letter was referred by Mr. Goldsborough to Mr. Fendall, and also to this department. Mr. Fendall replied to Mr. Goldsborough on May 6th, that Mr. Smith and himself seemed to be in accord upon the matter. On May 4th Mr. Fendall again wrote the Mayor, saying that he thought the change should be made, and Mr. Goldsborough then wrote this Department, requesting us to prepare the proper ordinance. Since that time I have conferred with Mr. Fendall and with Mr. Thom, Counsel for the railroad, in regard to the matter.

7647

In the meantime, the Mayor appears to have written Mr. House in regard to it, and on May 22nd Mr. House wrote Mr. Goldsborough, giving his reasons why he thought the change should not be made at the present time, and enclosing a letter from Mr. Thom, to the effect that if the change could be required, still the Railroad could not be compelled to pay for it, and enclosing also a letter from Chief Engineer J. M. Hood, Jr., giving reasons why he did not think the change should be required. These last letters were referred by Mr. Goldsborough to Mr. Fendall, who tells me that he has already said all he can say upon the subject, and they are also referred to this Department. From the fact that the correspondence has been referred to this department, as indicated above, I assume that the Mayor desires us to express a final opinion upon the matter.

7648

The Railways Company's tracks on Edmondson avenue were laid pursuant to Ordinance No. 36, approved April 20th, 1895, and Section 1 of this Ordinance provides that the tracks on Edmondson avenue shall be double tracks, and shall be laid on the southern side of said avenue in such manner that the north rail of the north track shall be thirty-nine feet north of the southern line of the avenue, with the exception of the space on the bridge, where but a single track shall be laid, and on such an alignment as to bring the north rail of such single track ten feet north of the southern line and rail-guard of the bridge. The tracks were laid and now exist in exact conformity with these provisions.

7649

Other ordinances affecting the Edmondson avenue line, none of which, however, seem material to the present inquiry, are ordinances No. 124, approved July 27th, 1896; No. 11, approved March 3rd, 1896, and No. 103, approved January 16th, 1901.