

File No. 9986 Continued.

OPINION.

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The physical conditions upon Edmondson avenue, between the new bridge and Calverton Road are these: at the north side of the street, at the corner of Calverton Road, there is a saloon, but from this saloon to the new bridge no improvements whatever exist on the north side. Even if they did, access to them could, of course, be readily had from the road as the tracks are not on the north side, but are on the south side. On the south side of Edmondson avenue, the United Railways' car barn is, at the corner of Calverton Road; then comes private property, which occupies about fifteen per cent of the distance to the new bridge; this private property is at present undeveloped and is for sale. From the west side of this private property to the bridge there is the Western Cemetery, which Company has recently bought the property binding on Edmondson avenue on the south, and is preparing the same for use. The entrance to the Cemetery is across the Railways' tracks on Edmondson avenue.

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Therefore, the situation upon the part of Edmondson avenue, between Calverton Road and the bridge, which is the portion of said avenue upon which it is proposed to require the railroad to shift its tracks, is, that there are no houses on the south side to which access can possibly be impeded by the present location of the tracks, and the only property holder which could be affected by the tracks is the Cemetery Company. At the gate of the Cemetery Company a crossing has already been constructed, which enables teams to drive into the Cemetery across the tracks without difficulty.

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Under these circumstances, I do not think that it can fairly be said that any public necessity exists at the present time for requiring the Railways Company to shift its tracks from the side to the center of Edmondson avenue, between Calverton Road and the bridge. I do not think that the fact that a single property holder, to wit, the Cemetery Company, might desire this change can constitute any public necessity for it, especially when a proper crossing over the tracks has already been provided for that Company, and certainly no other property is affected, because no other property is developed. To require the railroad to shift its tracks under these circumstances would, it seems to me, be requiring them to do this work for the benefit of the Western Cemetery Company, rather than for the benefit of the public.