

File No. 10104 Continued.

OPINION.

LAW DEPARTMENT.

Baltimore. June 3, 1909.

Hon. Edgar Allan Poe,
City Solicitor.

Dear Sir:-

7774 As requested by your favor of May 28th, I have considered General Leary's inquiry of the same date.

I understand that the Noel Construction Company, to which was awarded the contract for erecting the super-structure of the Sewage Pumping Station located on Eastern Avenue, placed the order for certain steel work, intended to be used in this foundation, with a Pittsburgh house, and that this steel work has now been completed and is ready for delivery.

7775 The Sewerage Commission, however, is not ready to receive it, owing to delay caused by the Inspector of Buildings in connection with the foundations. In the meantime the steel work is stored in an open field in Pittsburgh, near to the manufacturing company's shops, where it is without any covering, and exposed to the weather. The steel is likely to become damaged because of this lack of protection, and the Noel Construction Company claims that it is not responsible for the care of the steel work, because of the fact that the delay has not been due to its failure. The Company states that it will hold the City responsible for any damage done to the steel, and for all costs and expenses incident to its protection and storing. The Sewerage Commission contends that the contractor is responsible for the care of the material until its delivery and installation in the buildings.

7776 Section 42, page 20, of the Specifications, makes the contractor responsible for the care of the work and materials, and requires him to provide suitable means of protection for all materials intended to be used in the work and for work in progress; and requires him, also, to take all necessary precautions to prevent damage or injury to work in progress of construction, by freezing or from the inclemencies of the weather at any and all times when necessary.