File No. 3521 Continued. OPINION.

2851 Having the true respect that I have for General Hood, I do not believe that this proposition was submitted by him to you merely to give an air of specious reasonableness to the effort which some influential individuals connected with the Street Railway Company seem prepared to make to arrest, in a most important relation, the normal growth and expansion of the City, and to frustrate, so far as the territory on the York Road Turnpike is involved, all the popular purposes which led to the ratification of the Annex Improvement Loan. I am compelled, therefore, to believe that it was submitted to you too hastily for him to take mature professional advice as to the legal practicability of his suggestion.

2852 The City asks that the Turnpike Company, which is controlled by the Railway Company, cede its rights in the turnpike within the City limits to it at a fair price, and that the Railway Company surrender its franchises in the turnpike within the City limits to the City, and receive them back from the City without the payment of any price therefor by the Railway Company, subject to the Park Tax and to the general municipal superintendence, regulation and control, to which all railway lines on public highways in the City are now subject. If this request is not complied with, the Commissioners for Opening Streets, acting as the Annex Improvement Commission, created by Chapter 274 of the Acts of 1904, propose to condemn the bed of the turnpike within the City limits, and the franchises of the Railway Company in it, in which event, of course, the City would have to pay full value for them, reserving to itself, however, the right, if deemed equitably exercisable at the time, should the Railway Company desire to have the same franchises back again, to charge the Railway Company therefor the condemnation price, which the City itself had to pay to the Railway Company for them.

2853 By Section 5 of the Act, the Commissioners for Opening Streets are empowered to acquire by any ordinary mode of acquisition, or by condemnation, any private property whatsoever, including streets, avenues, lanes and alleys, rights or interests, franchises, privileges or easements, that may be required to open any street, avenue, lane or alley. It is hardly necessary for me to say to you that neither you nor the Commissioners for Opening Streets are authorized to delegate the powers thus conferred by this Act upon the Commissioners for