

File No. 7332 Continued.

CORRESPONDENCE.

sections of the Low Level Interceptor amounts to \$56,624.79. The letter of the Chief Engineer of January 8th, herewith enclosed, reports the work remaining to be done under the contracts on January 4, 1908. I also enclose copies of both contracts.

The Commission desires to know whether or not it has the authority, under the law and the conditions of the contract, to relax any of the requirements as to payment specified in the contract.

Please return the correspondence and the copies of the contracts, after you shall have reached a conclusion in the matter.

Respectfully,

(Signed) Peter Leary, Jr.,

Brig. Genl., U.S.A., Retired,
Chairman.File No. 7332.

OPINION.

LAW DEPARTMENT.

Baltimore, January 16, 1908.

Hon. W. Cabell Bruce,
City Solicitor.

Dear Sir:-

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I have examined the contract of the Metropolitan Contracting ~~Company with the Mayor and City Council of Baltimore for the construction~~ of the West Low Level Interceptor, Sections 1 and 2, in connection with the request made by the Metropolitan Contracting Company for the payment to it at the present time of \$25000 by the Sewerage Commission. Sections 59 and 60 of the Specifications contemplate that the amount reserved shall not be paid until forty days after the completion of the work done by the Contractor and that thereafter five per cent shall be retained for six months. Inasmuch as the work has not yet been finally completed, I can find no warrant in Sections 59 or 60 for the Sewerage Commission to anticipate the completion of the work and make this payment. Such a payment would be contrary to the express directions of these sections of the specifications and might operate to release the Surety on the bond given for the faithful performance