

File No. 8637Continued.

OPINION.

LAW DEPARTMENT.

Baltimore, October 5, 1908.

Hon. Edgar Allan Poe,
City Solicitor.

Dear Sir:-

6504

I beg to submit the following opinion in reference to the right of the Board of Park Commissioners to secure a leasehold interest in property intended for park purposes:

This matter would, in my judgment, be absolutely free from doubt, but for the fact that the Act of 1904, Chapter 338, being the Act which authorizes the issue of stock to the amount of \$1,000,000 for a loan, for extension of the public parks, contains the following provision:

"The Mayor and City Council of Baltimore, acting by and through the agency of the Board of Park Commissioners, may acquire by gift, purchase, lease, whatever the duration of the lease, or other like methods of acceptance or by condemnation, any land, &c."

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After careful consideration, it appears to me, however, that this provision, contained in an act authorizing a loan for extension of the public parks, was not intended to authorize acquisition of land in any manner which might require an expenditure by the City of any money, other than that secured through issuing the stock provided for in the Act. If it had been intended to authorize the Board of Park Commissioners to secure property by permanent leases, without providing for payment of rents out of the loan, there would have been ~~no necessity for any loan.~~ The purpose of the Park Board, stated in the enclosed letter, is to take a lease for 99 years, renewable forever and redeemable, of the property desired, without payment of any consideration thereof, the rent to be the yearly value of the property. If the Park Board had such power, it could lease any quantity of land without restriction, and certainly it was never the purpose of the legislature to give the Board unlimited power for such a purpose.

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I have considered the question whether or not the legislature might have intended to authorize the acquisition of property by lease, to such extent as the ground rents may be payable out of the Park Tax, but the Park Board has no such control of the Park Tax, as would authorize that construction. By Section 97 of the City Charter it is provided expressly that the "Board of Park Commissioners shall