Annapolis, Maryland, March 26, 1912.

The Board of Public Works of Maryland met, this date, at 3:15 p. m., in the Governor's Office, State House, Annapolis.

Present: Governor Goldsborough, Comptroller Harrington and Treasurer Vandiver.

Mr. Edgar Allan Poe, Attorney General of Maryland, was present and after a discussion by him as to the legal status of proposed sale of the P. & B. Central R. R. Co.'s holdings, and upon advice by him, and the information disclosed in the following communications from Mr. George V. Massey, Attorney for Samuel J. Steel, the Bidder, and Mr. H. Tatnall, Vice President of the Philadelphia & Baltimore Central R. R. Co., the following motion was offered by Treasurer Vardiver, seconded by Comptroller Harrington:

That the bid of Samuel J. Steele of $10,000 for the State's interest in the capital stock of The Philadelphia & Baltimore Central Railroad Company be finally accepted and confirmed, and that Mr. Steele be so notified of this fact. Motion unanimously carried.

The following is the letter of Mr. George V. Massey, Attorney for Mr. Samuel J. Steele:

"Philadelphia, March 22, 1912.

In the matter of the subscription by the State of Maryland to and for Seven hundred (700) shares of the capital stock of the Philadelphia & Baltimore Central R. R. CO., and the mortgage executed by the Railroad Company and delivered to the State in connection therewith as required, and conditioned as prescribed by Section 2 of the Maryland statute approved March 2, 1860, Chapter 303; and the bid of $10,000. for the purchase of the State's interest in said stock and the said mortgage, made by Samuel J. Steele.

To the Honorable, the Governor, the
Comptroller and the State Treasurer of the
State of Maryland, constituting the said
State's Board of Public Works.

Annapolis, Maryland.

Gentlemen:

I have the honor to acknowledge receipt of the communication of the 14th inst. from Robert P. Graham, Esq., Secretary of your Honorable Board, transmitting, pursuant to the Board's direction, a copy of the communication addressed to the Board by the Honorable Attorney General of said State, under date of March 7th, concerning the subject mentioned in the caption, for my information as Mr. Steele's Attorney, and "any comment upon the same that occurs to you (me) proper in order that they (your Board) may have all the light available on the subject;" and keenly appreciating the courtesy thus extended to me by your Board, and gratefully

acknowledging the same accordingly, I beg respectfully to comment on, and answer the vews and suggestions contained in, the Attorney General's said letter as follows:

The views and suggestions of the Attorney General as set forth in said letter, have been carefully noted and given that degree of consideration to which anything emanating from the chief law officer of the State is always justly entitled, and while I would, under ordinary circumstances, hisitate to differ radically from the conclusion of that officer respecting questions arising under legislation in said State, I am nevertheless, as the result of careful investigation, constrained to do so on the principal points in this case, which appear to me controlling for the reasons following:

First: It is manifest from his said letter, that the Attorney General appreciates the significance of the word "work," embraced in the phrase "profits of the work," contained in Section 2 of the Maryland statute passed March 2, 1860, (Chapter 303 of the Laws of 1860), and regards the same as fundamental and controlling, i. e., if the said profits are to be ascertained in respect to revenues derived from operation of that portion of the railroad located in Cecil County, Maryland, his letter impliedly concedes that there has been, and can be, no profit therefrom; and to avoid such result, he construes the word "work" as synonymous with, and the exact equivalent of, the word "enterprise," so as to comprehend the operation of the railroad between Wawa in Pennsylvania, and Octorara Junction in Cecil County, Maryland.

Such construction appears to me to be inconsistent and in conflict with the context of the statute of 1860. The public moneys specifically allorred and appropriated thereby among several Eastern Shore Counties, are in express terms declared to be so allotted and appropriated for certain enumerated works of internal improvements in the respective Counties, including, inter alia, in the County of Cecil, the Philadelphia & Baltimore Central R. R. CO,, the corporate successor of the "Baltimore and Philadelphia Railroad Company," which was solely a Maryland corporation and authorized to locate, construct and operate the railroad in said County. Hence, the word "work," embraced in the phrase "profits of the work" contained in Section 2 of said statute, should rightfully and properly be interpreted and construed as the work of internal improvement in the said County of Cecil, for the construction of which the said appropriation was made and was required to be expended.

Again, if the revenues derived by the Railroad Company from the operation of the portion of the railroad wholly located in Cecil County, had been sufficient to produce profits over and above cost of operation, maintenance and fixed charges, could the Company have successfully contended that the State of Maryland was not entitled to the benefit of those

profits because the portion of the railroad outside the said State was operated at a loss? I am disinclined to believe that the Attorney General would answer such hypothetical question negatively.

Second: Assuming, for sake of argument, that the word "work" should be held to apply to the railroad between Wawa in Pennsylvania and Octoraro Junction in Cecil County, Maryland, which the Philadelphia & Baltimore Central R. R. CO. was authorized to construct, and has constructed and operated, (which is not conceded, but expressly challenged by the preceding paragraph), it is, to me, inconceivable that the scope and effect of the said "work" can, on any sound and logical basis, be so extended and enlarged as to include and cover the operation of the railroad and property from West Chester, via Wawa, to Philadelphia, (wholly in the State of Pennsylvania), which, as the result of merger and consolidation under the laws of Pennsylvania, was acquired and became vested in the consolidated Company, having the same corporate title as its predecessor, viz: The Philadelphia and Baltimore Central Railroad Company, in the year 1881, upwards of twenty years after enactment of the statute of 1860, and many years after the making and payment by the State of its said subscription to the Company's capital stock. Clearly, the Legislature, at the enactment of the statute of 1860, could not have contemplated this merger and consolidation, occurring years afterwards, and could not have intended the said word "work" to comprehend it; and as there was no such legislative intent in the use of the word, it conclusively follows that it can have no such enlarged construction and effect in this respect as the Attorney General's letter suggests.

Third: Wholly apart from, and independently of, the material difference between the views and suggestions of the Honorable Attorney General and myself in respect to the particular features dealt with in the preceding paragraphs, and which might be further elaborated if necessary, I am justified in assuming - as the result of an exceedingly pleasant personal conference courteously accorded me by the Attorney General at the request of your Board, on the 14th inst., at Baltimore - that the word "profits" as used in the said Maryland statute, and applicable to the situation now under consideration, must necessarily be understood and construed as meaning "surplus revenue from operation remaining after payment of cost and expenses of operation and maintenance, taxes and interest upon the Company's funded debt represented by its outstanding bonds, and secured by Mortgage." Or, stated in different terms and more concretely: "A surplus from revenue which could have been, or could be, made the subject of dividend."

In order to obtain the authoritative and definite information respecting the result of the operation of the entire property of the Railroad Company, including as well the portion of its original railroad and property

located in the State of Pennsylvania, as also the railroad and property acquired as the result of merger and consolidation with the West Chester & Philadelphia R. R. Co., so as to afford satisfactory information as to the resultant revenue and surplus thereof, if any, remaining after payment of the cost and expense of operation and maintenance, taxes and interest on the Company's bonded debt, secured by mortgage, I requested Mr. Henry Tatnall, Financial Vice President of the Philadelphia & Baltimore Central R. R. CO., to examine and investigate the Company's records and accounts in this behalf, and furnish me with the result of such investigation, and I am just now in receipt of his letter of the 21st inst., which is herewith sent for the information of your Board - whereby it is distinctly shown that there are no "profits" resultant from the entire operation of the Railroad Company, after payment of the cost and expense of operation and maintenance, taxes and interest on the said Company's bonded debt.

Lastly: Although quite confident of the soundness and correctness of, and consequently constrained to adhere to, the opinion that, under a proper construction of all the provisions of the said Maryland statute of 1860, the "profits of the work" which the State would be entitled to the benefit of, must be strictly confined to that portion of the railroad and property located in the County of Cecil, in the State of Maryland, which, in the language of the said statute, constituted the "work of internal improvement in the said County of Cecil," it is nevertheless fairly inferable that your Board will deem further consideration of the legal questions involved in the situation unnessary in light of the definite data as to practical results, furnished by Mr. Tatnall's said letter.

It may, however, be appropriate to add, that the joint resultion adopted by the General Assembly of Maryland at the Session of 1892 - referred to in the memorandum which was heretofore submitted by me to the individual members of your Board, and copy of which was in turn submitted to the Attorney General - directing "certain old and worhtless accounts" to be stricken from the Comptroller's books, and the discontinuance of their publication in the annual reports of that officer - including the Philadelphia & Baltimore Central R. R. Co. - therein designated "Philadelphia and Baltimore Railroad Company $35,000." - indicates that the proper officers of the State having jurisdiction in matters of this sort, entertain views and opinion respecting the status and character of this security in consonance with those I entertain and have expressed in this letter.

Obviously it would not properly be my province, nor within the scope of my professional duty, acting in the capacity of Counsel for Mr. Samuel J. Steele, the Bidder, to make any urgent or specific argument for the acceptance of his bid, further than to observe that said bid is a substantial sum for what has always heretofore been and, so far as anyone can

reasonably anticipate, will continue to be a non-revenue producing security of the State if his said bid shall not be finally accepted.

When your Board shall have further considered the matter in light of the disclosures made by this letter and that of Mr. Tatnall, which accompanies it, and a final conclusion be reached, I would be greatly obliged if you will kind have the same communicated authoritatively to Mr. Samuel J. Steele, the Bidder, at his address as indicated in his proposal and a copy thereof contemporaneously sent to me by mail at No. 29 Pelham Road, Germantown, Philadelphia.

Very truly yours,

George V. Massey,

Attorney for Samuel J. Steele."

Broad Street Station, Philadelphia.

March 21st, 1912.

Geo. V. Massey, Esq.,

Attorney for Samuel J. Steele,

Philadelphia, Pa.

Dear Sir:

Having, pursuant to your request, made careful and considerate examination and investigation of the accounts and records showing the gross revenues of the railroad and property of The Philadelphia and Baltimore Central Railroad Company, and also the expense of operation and maintenance thereof, taxes paid, and interest paid on the Company's bonds secured by mortgage, from the year 1867 to and inclusive of the year 1881, and having also made like examination and investigation for the years since 1881 to and inclusive of the year 1911, I have definitely ascertained, and so advise you, that during the period from the year 1867 to and inclusive of the year 1881 (when the West Chester and Philadelphia Railroad Company's railroad and property became part of the property of the consolidated company as the result of merger and consolidation effected in that year), the said revenues were never in any year sufficient to pay cost and expense of operation and maintenance, taxes, and interest upon the Company's bonded debt secured by mortgage; and, further, that since the said consolidation and to and inclusive of the year 1911, the aggregate of the revenues derived from the entire property was less than the aggregate of said expenses, taxes and interest by the sum of $367,563.06 and consequently there are not any "profits" from the operation of the entire railroad property above the cost of operation and maintenance, taxes and interest on said bonded debt.

Very truly yours,

H. Tatnall, Vice-President.

The Secretary of the Board was directed to notify Mr. Steele that upon the delivery to the State Treasurer of the bonds of the State of

Maryland as specified in the bid and acceptance, proper assignment will be made to him.

"March 26, 1912.

Mr. Samuel J. Steele,

1524 Erie Avenue,

Philadelphia, Pa.

Dear Sir:

I am instructed by the Board of Public Works of Maryland to advise you of the action taken by said Board, at a meeting held this date, of your bid for the State's holdings in the Philadelphia & Baltimore Central Railroad Company. The following motion was offered and unanimously adopted:

"That the bid of Samuel J. Steele of $10,000 for the State's interest in the capital stock of The Philadelphia & Baltimore Central Railroad Company be finally accepted and confirmed."

I am further directed to notify you that upon the delivery to the State Treasurer of the bonds of the State of Maryland as specified in your bid and acceptance, proper assignment will be made to you.

Yours truly,

Robert P. Graham, Secretary, Board of Public Works."

"March 26, 1912.

Mr. George V. Massey,

Broad Street Station,

Philadelphia, Pa.

Dear Sir:

Complying with the request contained in your letter of the 22nd, instant, addressed to the Board of Public Works of Maryland, I am sending you herewith copy of a letter written by me, at the direction of the Board of Public Works relative to its action in the matter of the disposition of the State's interest in the Philadelphia & Baltimore Central Railroad Company.

Yours truly,

Robert P. Graham, Secretary, Board of Public Works."

There being no further business, the Board adjourned.

Robert P. Graham
Secretary.