File No. 5287 Continued.

OPINION.

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Ordinances Nos. 107 and 108, approved August 25, 1898, provide for the creation of the Electrical Commission, and for the laying of conduits, so that the use of the street for that purpose cannot be interfered with, except by the duly authorized municipal authorities.

If the drain, erected by Mr. Schaefer, or his predecessors in title, and now controlled by him, causes damage to the property of the City, it is the duty of Mr. Schaefer to change the situation, so that no further injury will result.

"Looking to the general rule of law that a man is bound so to use his own property as not to injure his neighbor, it seems to me that where a party alters things from their normal condition so as to render them dangerous to already acquired rights, the law casts upon him the obligation of guarding the danger, in order that it shall not be injurious to those rights".

Short vs. Balto. City Pass. R.R.Co., 50 Md. 88.
The maxim of law "sic utere tuo ut alienum non laedas".

Adams vs. Michael, 38 Md. 125
Short vs. Balto. City Pass. Ry. Co. 50 Md. 88
Mayor, etc., of Balto. vs. Warren Mfg. Co.59 Md. 106
Woodyear vs. Schaefer, 57 Md. 13,

property so as to inflict damage upon the City, especially when, by a proper user thereof, the damage will be averted. The present user creates a nuisance, and whether the original nuisance was created by Mr. Schaefer, or merely continued by him, does not affect the situation, as he has received notice of the condition, and it is now his duty to correct it.

Walter vs. County Commissioners, 35 Md. 385 Maenner vs. Carroll, 46 Md. 193 Metropolitan Savings Bank.vs. Manion, 87 Md. 68.

Under these circumstances, it appears clear that it is the duty of Mr. Schaefer to prevent a continuance of the condition which is causing damage to the property of the Mayor and City Council of Baltimore, and if he does not do so, after notice to that effect, the Mice-trical Commission will be justified in making the necessary change and charge the cost thereof to Mr. Schaefer.

A letter from the Law Department, perhaps, might cause a change in the situation, and I have written such a letter, notifying Mr.Schaefer to correct the condition, and giving him until September 17th to do so, at which time, if he has failed to make the change, the Electrical Commission should proceed to alter the condition at his expense.

Very truly yours, (Signed) Sylvan Hayes Lauchheimer Assistant City Solicite

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