

File No. 7259 Continued.

OPINION.

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Under these circumstances the Turnpike Company presents a claim against the city for \$37. to cover the cost of repairing the turnpike road by reason of the damage done to it, because of the drainage flowing down Catharine street upon the road. The point of the claim is, that the grading of Catharine street resulted in an increased flow of surface water.

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While this is doubtless the case, I do not think that the claim should be allowed. All the water which flows upon the turnpike is nothing more than natural surface water. This flow has never been changed or diverted in the slightest degree, except so far as is necessarily the case whenever a street is paved.

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When an unpaved street is paved it must follow that drainage which formerly soaked into the soil can no longer be absorbed that way, and that little gullies in the street, which the natural drainage made for itself, must necessarily be closed up by the paving. Of course, this means that more natural drainage will flow down the street than was formerly the case, but I think that damage caused by such natural drainage is simply a consequential damage due to proper grading and paving, and is not the proper subject for a claim against the city.

Very truly yours,

(Signed) Albert C. Ritchie,

Assistant City Solicitor.

File No. 7259.

LAW DEPARTMENT.

Baltimore, January 10, 1908.

Thos. Mackenzie, Esq.,

Attorney-at-law,

Suite 607 Continental Trust Bldg.

Dear Sir:-

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Referring to your letter of the 19th ult., to the City Engineer, with reference to the repair bill presented by the B. & T. Turnpike Company against the City, amounting to \$37.00, I beg leave to say