

File No. 9037 Continued.

OPINION.

LAW DEPARTMENT.

Baltimore, November 11, 1908.

Hon. Edgar Allan Poe,  
City Solicitor.

Dear Sir:-

Replying to your request of the 10th inst., for a report on the matter referred to in the letter of the Chief Engineer of the Electrical Commission, I beg to advise you as follows:

The question is whether the City is liable for the expense incurred by the C. & P. Telephone Company for lowering a conduit belonging to that Company, - such change being necessary on account of the work done by the Electrical Commission at North avenue and Smallwood street.

It has been decided that whatever rights and franchises have been granted by the City for the use of public streets, are subject always to the City's paramount right to disturb the enjoyment of such franchises whenever the public exigencies require it; and the City is under no obligation to bear the expense of changes rendered necessary by the public convenience. This proposition was held generally in Kirby vs. Citizens' Railway, 48 Md., 168, and is deductible by a fair inference from the decision in C. & P. Telephone Co. vs. Baltimore City, 89 Md. 689.

It can hardly be questioned that the work of the Electrical Commission is required by public safety and convenience. There seems to be no doubt, therefore, that the C. & P. Telephone Company should bear the expense in question, and you are advised accordingly.

Yours very truly,

(Signed) W. H. DeC. Wright,

Assistant City Solicitor.

File No. 9037.

LAW DEPARTMENT.

Baltimore, November 12, 1908.

Charles E. Phelps, Esq.,  
Chief Engineer, Electrical Commission.

Dear Sir:-

Replying to your favor of November 9th, in reference to

6707