

File No. 9221 Continued.

OPINION.

he expressed his opinion in a similar matter as follows:

"So far as the two bills submitted to me cover the cost of removing and replacing the lamp-posts themselves, they should be paid by the City, because the posts are City property, but, so far as the bills cover the cost of removing or shifting any of the Gas Company's pipes, or connections, or of reconnecting such pipes with the lamp-posts, they should be paid by the Gas Company".

The undated agreement entered into between the City and the Consolidated Gas Electric Light and Power Co. relates to the responsibility of the Company as to the shifting and removal of its wires and certain overhead construction in which the City undertakes to submit to judicial decision the question as to whether the City or the Gas Company should pay for such removal.

It becomes a question whether or not it was intended by His Honor, the Mayor, to refer the question of the ultimate payment for the removal of gas lamps and their auxiliaries as well as electric lamps and their overhead wires &c. to the agreement recited.

This Commission on April 8th 1908, in a communication addressed to the Asst. General Manager Consolidated Gas Electric Light and Power Co., declined to pay the costs of removal of certain electric lamps and poles at Ann St. and Canton Ave., Ann St. and Eastern Ave. and Wolfe and Thames Sts. respectively, on the ground that the lamps in question came under the operation of the opinion expressed by Mr. Bruce. And again, on April 18th, declined to pay a bill for changing the position of an arc lamp on Light St., south of Pratt St., for the same reason.

It would seem that the removal of electric lamps comes clearly within the view of the agreement with the City, and I would like to be informed whether or not in your opinion the agreement includes also the charges for the removal of City gas lamps, the lamps being owned by the City, but the connections of the lamps being owned and maintained by the Consolidated Gas Electric Light and Power Co. I would like further to be informed as to the obligation of the City to pay such bills under the contract of the City with the Consolidated Gas Electric Light & Power Co. under the contract