

File No. 11237. Continued.

OPINION.

LAW DEPARTMENT.

Baltimore, April 29, 1910.

Hon. Edgar Allan Poe,
City Solicitor.

Dear Sir:-

As requested by your favor of April 25th, I have considered Mr. Phelps' inquiry to you of April 22nd.

6898 It appears that some years ago the Electrical Commission established a rule that Companies making application for the construction of conduits should be required to guarantee the use of at least seventy per cent of the amount of duct space which they desired to have constructed.

In 1900 or 1901, the Maryland Telephone and Telegraph Company applied to have certain conduits constructed, and these conduits were constructed by the Electrical Commission upon the Company's guarantee that it would pay rental for nine ducts, and this was done for sometime. The franchise to the Maryland Telephone & Telegraph Company is now owned and operated by the Maryland Telephone Company, and it appears that the Maryland Telephone Company declines to pay for the entire nine ducts, and claims that it is under obligation to pay only for such ducts as it actually uses.

6899 I do not know whether the Maryland Telephone Company constitutes a consolidation of the Maryland Telephone & Telegraph Company or whether it simply controls the latter Company through stock ownership. If the former is the case, then I think that the Maryland Telephone Company succeeded to all the burdens and obligations of the Maryland Telephone and Telegraph Company, and hence is bound on the obligations of that Company to pay for nine ducts. If, on the other hand, there has been no consolidation but the Maryland Telephone and Telegraph Company continues to operate its franchise under the control of the Maryland Telephone Company, then, of course, there can be no question as to the continuance of the obligations of the Maryland Telephone and Telegraph Company. In any event, therefore, I am of opinion that the guarantee of the Maryland Telephone & Telegraph Company to pay for nine ducts still exists and is still enforceable.