

File No. 36404

Baltimore, December 3, 1924.

Mr. Charles F. Goob,

Chief Engineer, Electrical Commission,  
City Hall,  
Baltimore, Maryland.

Dear Sir:

I received your letter of November 7th, asking my opinion regarding the liability of the United Railways & Electric Company for damages to the conduit lines of the City, the amount of damages being evidenced by bills Nos. 2664 and 2856, attached to the correspondence with your letter. The correspondence I return herewith.

The only theory upon which the Company can be made to pay for damages to the conduits of the City, under the facts of this particular case as set out by you, is negligence. The facts, however, showing that negligence are somewhat meager from the correspondence. The only reference therein that the damages were caused is "by the break-down of their (its) cables, completely shattering the duct line."

Assuming, however, that the breaking down of the cables was the fault of the Railway Company, I am of opinion that it is liable.

There is no specific provision in the lease covering the particular situation. I think it clear, however, that the general principles of law, applicable to the leasing of property and damages there-to caused by the negligence of the tenant, apply in this case. That seems to be clear by the provision in Section 9 of the lease to the effect that nothing therein shall be taken as an admission by the lessor that the lessee is not bound absolutely and at all events to so use its electric current and the duct space covered by the lease and every part thereof "as not to produce any injury or detriment to the ducts in said conduit and to said conduit works."

It is impossible to arrive at a positive conclusion regarding liability when the facts are, as in this case, somewhat indefinite. Therefore, when I express the opinion that the Company is liable, it is on the theory that the facts when produced will show that the damage to the conduit system of the City was caused by the negligence of the Company as a tenant.

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