

File No. 6723 Continued.

OPINION.

4903 contrary, I claim that the City has the sole right to the use of this wharf; subject only to the right of the Street Railway Company to use it for such reasonable purposes as the use of its power house as a power house may render necessary. Especially do I deny that the Street Railway Company has the right to collect wharfage for the use of any part of the wharf, or to lease any part of the wharf, or to make any use of the wharf not sustaining a directly incidental relationship to the operation of its power house. If there is any space on the wharf not actually appropriated by the Street Railway Company for the reasonable uses of its power house, that space belongs to the City, and can be leased by the City or be made a source of revenue to the City by the collection of wharfage.

4904 By the terms of the Burnt District Commission condemnation the City acquired the present bulkhead of the Street Railway Company and the right of that Company to occupy the same, and the right to relocate and rebuild the wharf, and to adjust the wharf rights, water and riparian rights of the Street Railway Company, subject to which the condemnation was made, so as to conform to the general purposes for which the wharf was condemned by the City. It follows in my judgment that the cost of constructing and maintaining the new bulkhead should be borne by the City. I enclose you a copy of the condemnation provisions which may serve to make the situation to you somewhat clearer than it now is. The City, however, in my opinion is not bound to re-locate or re-build the present bulkhead, unless it chooses, though bound to maintain, at its expense, the present bulkhead so long as it is left unaltered.

(Signed) W. Cabell Bruce,  
City Solicitor.

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