

File No. 8792 Continued.

OPINION.

LAW DEPARTMENT.

Baltimore, September 29, 1908.

Hon. Edgar Allan Poe,
City Solicitor.

Dear Sir:-

I am in receipt of your letter of September 29th, with the enclosures from the City Engineer with reference to the pole at the corner of German and Greene streets.

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The provisions of the Baltimore City Code (Pielert's Revision) which are applicable to this case are Sections 38 to 42, Article 41, pp. 1210-1212.

Section 38 requires all corporations using poles on any streets, lanes or alleys in the City of Baltimore to file with the Collector of Water Rents and Licenses a list of all poles so used, and for failure to file such a list, the corporation is made subject to a penalty of not less than Ten dollars, and One dollar per day for every day it fails to furnish the said list after written notice to furnish it shall have been given by the Collector of Water Rents and Licenses.

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Section 42 requires corporations using poles on any streets, lanes or alleys of the City to file a list of all said poles, and imposes the penalty of \$10.00 for the failure to file said list, or to comply with the provisions of Section 39 of said Article.

Two penalties, therefore, seem to be imposed by the ordinances. The one by Section 38, which provides for a penalty of Ten dollars, and One dollar for every day that the list is not filed. And the other by Section 42, which imposes a penalty of Ten dollars for each pole which has not been mentioned in the list, or for which the license has not been issued.

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The correspondence makes it clear that the Maryland Telephone Company has used the pole at the corner of German and Greene streets, and is, therefore, subject to both penalties: under Section 38 for not having filed a complete list, and under Section 42 for not having taken out the license, and paid the fee required by Section 39.

Section 1 of Article 10 (Pielert's Revision) p. 729, provides, "any municipal official, or officer of the City shall have full power and authority to commence and institute before a Justice of the Peace