

File No. 12256

Baltimore, January 9, 1911.

Hon. Edgar Allan Poe,  
City Solicitor.

Dear Sir:

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I beg to reply to your favor of the 6th inst., referring to me the question presented in the letter of D. B. Banks, Consulting Engineer of the Board of Fire Commissioners.

It became necessary, in the construction of the High Pressure Pipe Line, at the corner of Howard and Pratt streets, to cross the tunnel of the B. & O. Railroad, lying beneath the bed of the street at that point. It was necessary to cut into the top of the arch, to the extent of about eight or ten inches. The cost of the work, as I understand it, was borne by the City, except that the Railroad Company had an Inspector to supervise the work. The question is - whether the services of this Inspector should be paid for by the City. The bills aggregate, - \$38.95.

The law, as I understand it, is that, if the Railroad Company acquired its right to construct a tunnel beneath the street bed from the City after the City had acquired the street itself, (as is doubtless the case here), then, the Railroad Company must submit to any subsequent interference that its structures rendered necessary by the construction of needed municipal improvements, and must bear the consequential expense.

Railway Co. vs. Balto., 75 Md. 247.  
Kirby vs. Citizens Railway Co., 48 Md. 168

It would, therefore, appear that the Railroad Company should not be paid for the services of its Inspector, and further that the Railroad Company should reimburse the City for the additional expense in laying its pipe line rendered necessary by the presence of the tunnel arch. However, prior to the laying of the pipe line certain correspondence took place between Mr. Banks and the Railroad Company, from which the Railroad Company probably inferred that the bill for its Inspector would be paid by the City. Of course, Mr. Banks had no authority to bind the City in this matter, but in view of the fact that had the Railroad resisted the con-