

File No.

Baltimore, February 15, 1911.

Hon. Edgar Allan Poe
City Solicitor

Dear Sir:

884 I am replying to your letter of February 10th, referring the letter to you from the City Engineer of February 8th, in which he asks whether he should issue a permit to the Baltimore & Ohio Railroad Company for erecting poles and overhead wires for use in connection with the track authorized by Ordinance No. 493, approved May 6, 1910.

As you will note from the letter of the City Engineer, by Ordinance No. 136, approved September 18, 1896, the Railroad Company was authorized to use electric power in operating over the track in the bed of Wolfe Street, and the Ordinance also authorized the Company to erect poles and overhead wires for that purpose. Ordinance No. 493, approved May 6, 1910, authorizes the Railroad Company to construct, maintain and operate a single track from its present track in Wolfe Street, beginning at a point thirty-five feet South of Lancaster Street, and extending Northeasterly by a curve to the North side of Lancaster Street, and thence Easterly about three hundred and twenty feet. This Ordinance does not expressly authorize the erection of poles and overhead wires for use in connection with such track.

In my opinion, the Ordinance did not impliedly authorize the erection of such poles and overhead wires. I do not think that the City should be held, by implication, to grant rights of this kind for the use of its streets. If it is desired to secure the right to erect poles and overhead wires an Ordinance should be passed giving this right in plain and unmistakable terms.

Even if the Ordinance does impliedly give a right to erect poles and overhead wires, I think that the City Engineer should not, at this time, issue the desired permit, for the following reasons:

The Ordinance, as you will recall, was approved May 6th 1910, and Section 2 provides that "the said right (the right to construct