FILE NO. 72482

October 14, 1940

Honorable Howard W. Jackson
Mayor of Baltimore,
City Hall
Baltimore, Maryland

Dear Mr. Mayor:

Reference is made to your letter of October 2, 1940, requesting me to consider the advisability of an ordinance making it illegal to throw out of a window articles such as metal waste baskets. In your letter you refer to a young girl whose skull was fractured by a basket thrown out of a window during the recent visit of Mr. Wendell L. Willkie to one of the cities in the State of Michigan.

Although the intent to injure is an essential element of assault, the necessary intent to do bodily harm to another may be imputed where one acts in a reckless and wanton disregard for the safety of others. It is my opinion that if a person throws from a window a metal waste basket or other such receptacle under circumstances under which a reasonable person would know that bodily injury might reasonably follow, such person would be guilty of an assault. Consequently, I do not believe that an ordinance would afford any greater protection than is now afforded by the existing criminal law.

Very truly yours,

(signed) CHARLES C. G. EVANS

CCGE/RRS

City Solicitor