

In the Circuit Court
for Baltimore City.
Victor Schmitt, 13
George W. Beal ¹⁸⁶⁵
et al.

ms
The Mayor & City Council
of Baltimore

Mr Coan

Please file this
Bill of Complaint

Wm A. Fisher
Record made to the
April Term 1865

Copied

Copied

Feb 6 February 1868



To the Honorable William Alexander
Judge of the Circuit Court for Baltimore City.

The Bill of Complaint of Victor
Blumet, next friend of ^{J. Blumet, John G. Blumet, George W. C. Neal, Charles Thomas} ~~Blumet~~, Lewis, Mary & Alfred Blumet
Sisco, John Edw. Sisco, Isabella Ann Sisco, Chew Hunting
and Laura, his wife, of the City of Balti-
more, respectfully represents unto your Honor
that by an Act of the General Assembly of Maryland,
passed at its December Session 1838 ch. 326, entitled
"An Act to vest certain powers in the Corpora-
tion of the City of Baltimore in reference to Streets," the
State of Maryland conferred upon the Mayor and
City Council of Baltimore power to provide for laying
out, opening, extending, widening, straightening or
closing up, in whole or in part, any street, square,
lane or alley, within the bounds of the City, which
in their opinion in the public convenience might
require, and the said Mayor and City Council
of Baltimore seeking to provide for the exercise
of the powers thus tendered to it by the legislature
on the fifth day passed an Ordinance entitled
"An Ordinance to provide for exercising certain
powers vested in this Corporation in relation to
Streets in the City of Baltimore," which was approved
on the fifth day of June eighteen hundred and fifty
eight, authorizing the appointment of three com-
missioners, to act in effecting the purposes of the
said Ordinance, and in the taking of plans, and
fixing of assessments for benefits as provided by the
Ordinance; And that by another Ordinance
entitled "An Ordinance to abolish the Office
of Commissioners for opening Streets in the City
of Baltimore, and to confer their power on the

Appeal Tax Court," approved on the twenty eighth day of February eighteen hundred and sixty one, the powers thereto deposited in the Street Commissioners were vested in the three judges of the Appeal Tax Court: And your Orators further shew unto your Honor that afterwards the Mayor and City Council of Baltimore passed an Ordinance, approved on the fifth day of May eighteen hundred and sixty four, entitled "An Ordinance to open a Street, in continuation of Halliday Street from Baltimore Street to Second Street," by the first section whereof the judges of the Appeal Tax Court were authorized and required to condemn and open a Street in continuation of Halliday Street from Baltimore Street to Second Street, and beginning for the same on the North side of Baltimore Street, at the South East corner of the house No 104 Great Baltimore Street, owned by the late A. B. Gordon's children, and at the corner formed by the intersection of the North side of Baltimore Street, and at the West side of Halliday Street as in process of widening; thence for the Great line Southward, by a straight line to a point on the North side of Second Street, seven feet one and three eighths inches easterly from the Southwest corner of the property known as No 36 Second Street, and formerly said to belong to Hugh Humphreys, deceased, and now occupied by James Boyce and others; thence easterly on the North side of Second Street fifty nine feet two and one half inches, thence Northward to the South end of the dividing line between Sica's Estate and the property said to belong to Victor Chund, thence Northward along said

ing the property of your Orator, the lines, and fronting sixteen feet on Baltimore Street, with a depth of one hundred and eighty feet, and your Orator Victor Clunet hath been applied for supposed benefits to the said lot in the large sum of \$6300, and your Orator, the Clunet, avow and charge that the said Ordinance and all the proceedings had by the Judges of the Appeal Tax Court by virtue of its provisions were wholly against their wish and without their concurrence, and they insist that their lot will not be benefited at all by the opening of such Street, or at any rate will not be benefited at all in proportion to the heavy assessment placed upon the same.

And your Orator further shew unto your Honor that your Orator George H. C. Neal is the owner of a lot of ground on the South side of Baltimore Street, with a front of twenty five feet on Baltimore Street and a depth of one hundred and eighty two feet, and lies immediately opposite the present line of Holliday Street, which your Orator holds under a renewable lease for ninety nine years, and for many years past your Orator has occupied the property for the purposes of his business as a wholesale and retail dry goods merchant, and he hath by means of the great advantages derived from the location of his said property upon and opposite public thorough fares succeeded in securing an extensive and remunerative trade, and there hath been erected upon his said property a large three story ware house, which your Orator Neal hath not long since repaired at large expense;

And your Orators Charles Thomas Sisco
and others are also the owners of a valuable
lot of ground on the South side of Baltimore Street
of the same dimensions with that of your Orator
Neal and adjoining the same on the East, which
they have acquired as the widow and
of Sisco deceased, and for many years before
his death the said Sisco occupied the said
property, in conducting the business of the manufac-
ture and sale of finings, trimmings and flags,
and your Orators the Siscos have since con-
ducted the said business in the said property,
so that the property has become well known
as a position for the said ^{trade} business, and your
Orators the Siscos have erected at very
great expense a ^{very} valuable three story ware
house upon the said lot of ground.

And your Orators further show that the
said Judges of the Appeal Tax Court in the
exercise of their pretended powers under
the said Ordinance of 1864 have condemned
or assumed to condemn the whole of the property
of your Orators Neal and the Siscos
and have allowed to your Orator Neal the

sum of \$17287⁵⁰ and to your Orators, the Sisco, the sum of \$47631²⁵ for damages for the taking of the property of your Orators Seal and the Sisco, but they have allowed no compensation whatever for the ruinous losses which will be inflicted upon you from the destruction of their business which must result from their being deprived of the good will of their said property; and your Orators Seal and the Sisco aver that the said Ordinance was passed and such condemnation had against their will and in spite of their remonstrances and protest.

Further complaining your Orators shew unto your Honor that by the seventh section of the Ordinance of 1858, by the provisions whereof the judges of the Appeal Tax Court are governed in executing the powers reposed in them by the Ordinance of 1864, it is provided that "in every case where it shall be necessary to effect the object proposed, that a part only of a house and lot, or of a lot, shall be taken and used or destroyed, and the owner thereof shall claim to be compensated for the whole, the said Commissioners shall ascertain the full value thereof, as if the whole lot and improvements were necessary to be taken for ~~the~~ such proposed object; and the whole amount of such valuation, when finally determined upon, shall be paid or tendered to the owner thereof, or vested in City stock for his or his use, before any part thereof shall be destroyed, removed or used;" and that the Commissioners, after giving the prescribed notice, may sell at public auction

tion the materials of any house which it may be necessary
to remove in whole or in part, and the residue of any lot
of which a part shall be taken and used as necessary
to effect the object confided to the Commissioners;
And your Orators further show that the judges of
the Appeal Tax Court have condemned not only
such lots and improvements as are situated upon
the proposed bed of the Street, but have also con-
demned improvements belonging to various
parties, and a large quantity of ground, belonging
to the German Reformed Church and other parties,
"not necessary to effect the object proposed"
and not to be used by the Mayor & City Council
of Baltimore, as a part of the bed of the Street to be
opened in pursuance of the Ordinance, and have
assumed to sell the same, and thus render your
Orator Chenet and other parties, still further
responsible, And your Orators are advised
and insist that such provisions of the Ordinance
are unwarranted by the Code, and are repugnant
to the fair and legitimate exercise of the power to
take the property of the citizen for public uses,
and constitute an excessive and unconstitutional
exercise of power which is, and of right should
be, fatal to the said Ordinance of 1864 and of all
proceedings had thereunder.

Further complaining Your Orators
show unto your Honor that by the fourth section
of the said Ordinance of 1864 it was provided
that "in the settlement with William W. McCallan
or Catherine W. Raborg for any damages
which may be awarded him or her, for prop-
erty condemned under the provisions of this Ordi-

naunce, there shall first be deducted the amount of two orders upon the Collector or Register of the City, the one in favor of A. Haen & Company, and the other in favor of the proprietors of the Halliday Street Theatre, which were received in payment of the assessment upon those parties under the provisions of Ordinance No 59, approved October 2^d 1808, and of interest upon the same; and upon the settlement by the said William H. McCallan or Catherine M. Rahog, of the amount of the order aforesaid in favor of A. Haen & Company, with interest thereon, the Register of the City is hereby directed to pay the same over to A. Haen & Company, or to credit the amount upon any assessment which may be levied upon them under the provisions of this Ordinance, and by the fifth section of the said Ordinance it was also provided that the Ordinance should not take effect until the said William H. McCallan and Catherine M. Rahog, or their representatives, shall have given their written assent to the provisions of the said fourth Section:

And your Orators are and charge that the said Ordinance was an attempt on the part of the said Mayor & City Council of Baltimore to combine, in an Ordinance purporting to provide for the exercise of the right of eminent domain in the condemnation of property belonging to some of your Orators, and of the right of taxation in the assessment of supposed benefits upon the property of others of your Orators, the settlement of

claims and disputes with which your Orators had no connection whatever, and which in no manner related to the subject or object of the said Ordinance, and also to render the existence and force of the Ordinance dependent upon the assent of parties, who, like your Orators, were the owners of property within the reach of condemnation and expropriation, thus making your Orators' rights and interests rest upon the assent of said other parties; and your Orators are advised and insist that the right to take the property of your Orators and other citizens for public use is a delicate power to be exercised only with the utmost fairness ^{and} cases only where ~~the~~ ^{Person} necessity may be demanded by the public convenience, and that the said Ordinance, thus departing from the single purpose of taking property for a recognized and pressing public use, is an invalid assumption of power and void. And your Orators further charge that the said Ordinance was not demanded by public convenience or necessity, and that two thirds of the parties ~~of~~ who are assumed to be benefited by the proposed continuation of Halliday, that united in remonstrating against the passage of the said Ordinance, and they further aver that upon the face of the said Ordinance it is apparent the same was not passed in view of any urgent public necessity, since ~~the~~ ^{its} validity and binding force of the said were made to depend upon the will and judgment of those who had the advantage and promoters of its passage.

And your Orators further charge that the said Ordinance of 1858, ^{as modified by that of 1864} by which the proceedings in reference to the opening of the said Streets to be governed, provided by its ninth section for the right of appeal from the Commissioners or Judges of the Appeal to a Court only, to the Criminal Court of Baltimore, and that by an Act of the General Assembly of Maryland, passed on the 31st day of March 1853, chapter 451, entitled "An Act to confer on the Superior Court of Baltimore City, concurrent jurisdiction in the matter of opening ~~streets~~ and closing Streets", concurrent jurisdiction with the Criminal Court of Baltimore in appeal from the Commissioners for opening Streets was conferred upon the Superior Court of Baltimore City; and that hence it was the right of the citizen at time the said Ordinance of 1858 was passed to have his appeal to either the Criminal Court of Baltimore or the Superior Court of Baltimore City: And your Orators further show that by the 837th Section of the 4th Article of the Code of Public Local Laws, the Mayor & City Council of Baltimore were empowered to make provision for the opening of Streets and were required to provide for the citizen by their Ordinance the right of appeal, ^{to} either of the said Courts as he might deem best, from the decisions of any Commissioners or other persons acting as aforesaid in the condemnation of property and apportionment of benefits on account of the opening of Streets, and they are advised that such right of appeal was a valuable one of which they could not rightfully be deprived.

and your Orators complain that the said Mayor & City Council of Baltimore have nevertheless sought by their said Ordinance to deprive your Orators of the right of election so guaranteed to them, and to restrict their right of appeal to the Criminal Court of Baltimore: And your Orators further represent that they are advised that the said Act of 1808 was repealed by the adoption of the Code, and that it was the duty of the Mayor & City Council to provide by Ordinance for the opening of Streets in accordance with the requirements of the Code, and that they possessed no power to pass any Ordinance upon for such object, unless the same should contain provisions granting and providing for appeals as aforesaid to either of the said Courts at the option of the party feeling himself aggrieved, and that hence the Ordinance under which the Judges of the Appeal Tax Court assumed to act in condemning the property of some of your Orators and ordering that of the other for benefits, and in proceeding to enforce such condemnation and assessments, is not warranted by the powers conferred upon the Corporation.

And your Orators further and charge that notwithstanding the earnest remonstrances of your Orators and notwithstanding the grossly unjust and partial award of damages and assessment of benefits to your Orators, and notwithstanding the failure to comply with the requirements of the Law as aforesaid in the papers of said Ordinance,

the said Judges of the Appeal Court and the Mayor & City Council of Baltimore are insisting upon their right^{ts} to deprive your Orators of their property, and collect such payments, and, unless restrained by the interposition of this Honorable Court, will remove the property of your Orators & seal and the Sireas and destroy their business, and will subject your Orators to unjust and onerous burthens, and your Orators are remedied at the Common Law and reliefable only in Equity, where matters of this nature are properly cognizable.

In tender consideration whereof and to the end that the Mayor & City Council of Baltimore may answer the premises, and that the said the Mayor and City Council of Baltimore, may be perpetually enjoined its officers, agents and servants, may be perpetually enjoined from proceeding further to enforce the said Ordinance entitled "An Ordinance to open a Street in continuation of Halliday Street from Baltimore Street to Second Street" and from taking any further proceedings thereunder, and that your Orators may have such other and further relief in the premises as Equity & the nature of their case, respectively, may require,

May it please your Honor to grant unto your Orators the writ of subpoena to be directed to the Mayor & City Council of Baltimore commanding them to be and appear in this Honorable Court by a day in that behalf to be named to answer the

premises and to abide by and perform such
decree as your Honor may pass in the premises;
And also the writ of the State of Maryland of
injunction to be directed to the Mayor & City
Council of Baltimore enjoining and strictly
prohibiting it, its officers, agents and servants
from proceeding to enforce the said Ordinance
entitled "An Ordinance to open a street in contin-
uation of Halliday Street from Baltimore Street
to Second Street", and from taking any further
steps or proceedings thereunder for the opening
of such street, until the further Order of this
Court;

And as in duty bound

W. L. Alexander

Thos. Steele

J. A. Fisher

L. M. Reynolds

State of Maryland for Comrs
City of Baltimore Set;

This 6th day of February 1868 before the sub-
scribed, a Justice of the Peace of the State of
Maryland in and for the City of Baltimore personally
appeared John Edward Setco and made oath
in due form of law that the matters and
facts stated in the foregoing Bill are
true to the best of his knowledge, information
and belief.

Wm. E. Terrestrial, J.P.



13
1865

Ct. Ct.

No.

Docket.

Clunet
sather

vs.

Major Henry
Council of Balto.

SUBPENA to answer Bill of Complaint.

Summoned

Ambo

Geo. J. Dancker
Sheriff

Filed 6 February 1865

Wm. A. Fisher Esq

Will appear in the Sept - 1865 and
return the writ or

[Handwritten signature]



THE STATE OF MARYLAND

To

The Mayor & City Council
of Baltimore

OF BALTIMORE CITY, GREETING:

WE COMMAND AND ENJOIN YOU, that all excuses set aside, you be in your person before
the Judge of the Circuit Court of Baltimore city, at the Court House in said city, on the second
Monday of March next, to answer the complaint of

Victor Lunet,
George H. C. Neal & others

against you in said Court exhibited.

HEREOF fail not, as you will answer the contrary at your peril.

WITNESS the Honorable WILLIAM ALEXANDER, Judge of our said Court, the 9th
day of January 1865

Issued the 11th day of February Anno Domini 1865

Samuel M. Evans CLERK.

Victor Blumet
George H. E. Neal
et al

VS.

The Mayor & City
Council of Baltimore

IN THE
CIRCUIT COURT
of
for Baltimore City.

January Term, 1865

On the foregoing Bill and ~~Exhibit~~ it is this *sixth* day of *February* 1865 ordered that ~~he and he is hereby appointed Receiver~~ with the power and authority to take charge and possession of the goods, wares, and merchandises, books, papers and effects of or belonging to the said and to collect the outstanding debts due to the said and the said ~~subject~~ hereby required to yield up and deliver to the said Receiver the goods, wares, and merchandises, books, papers and effects of the said subject nevertheless to the further order of this Court.

And it is further ordered that before the said proceeds to act as Receiver by virtue of this order, he shall give bond to the State of Maryland in the penalty of ~~Dollars~~ Dollars with a surety or sureties to be approved by this Court or the Clerk thereof, and conditioned for the faithful performance of the trust reposed in him by this order, or which may be reposed in him by any future order or decree in the premises.

And it is further ordered that a writ of Injunction be issued as is prayed in said Bill upon the filing of a bond by the Complainants in the penalty of *Ten thousand* Dollars with security to be approved by the Clerk of this Court; but liberty is hereby reserved to the defendants to move for the rescinding of this order and for a dissolution of the Injunction to be issued as aforesaid at any time after filing answers to said Bill on giving the Complainant five days previous notice of such motion. And the Clerk is hereby directed to annex a copy of this order to the writ of Injunction.

TEST:

Wm Alexander

I HEREBY CERTIFY that the above is a true copy of the order appointing Receiver and directing Injunction to issue passed by the Circuit Court for Baltimore City in the said cause; and that the Receiver therein named has filed his approved Bond as by the terms of said order required.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of the said Circuit Court for Baltimore City this
day of _____ in the year of our Lord one thousand
eight hundred and sixty

Clerk.

Given at New York this 13th day of February 1865

THAT WE

of the City of Baltimore, and State of Maryland, are held and firmly bound unto the State of Maryland in the full and just sum of Dollars, current money, to be paid to the said State of Maryland, or its certain Attorney; to

13
1865

Ct. Ct.

No. Docket

Peter Blumet, next friends,
George N. C. Neal et al.

vs.

The Mayor & City Council of Baltimore

3

INJUNCTION BOND.

I believe the within Bond to be sufficient,

& approve of the same

Saml. M. Evans Clerk.

Bond approved,

Filed 6th day of February 1865

From the Copied of the above Affidavit is such, and if the said defendant shall do and prosecute the said writ of injunction with effect, and satisfy and save harmless the said defendant, if the same be not prosecuted with effect, and in such cases pay all costs and disbursements which shall be occasioned by the issuing thereof, and shall in all things obey, abide by, perform and fulfil such decree and order as shall be made in the premises, then the above obligations to be void, otherwise of full force and virtue.

Witness my hand and seal of office at Baltimore this 13th day of February 1865

John P. [Signature]
[Seal] [Seal] [Seal] [Seal]

State of Maryland, Baltimore City, Md.

I hereby certify, that on this day of February 1865 personally appeared before me, the undersigned, a Justice of the Peace of said State, in and for said City, and made Oath on the Holy Evangelists of Almighty God, that he knows the foregoing circumstances of the within named societies, and that they are worth the amount of the penalty set forth in the within bond, over and above their just debts and liabilities.

Know all Men by these Presents,

THAT WE *George H. Neal, Victor Brunet, John Edward Lisco and, John S. Barry and Solomon King*

of the City of Baltimore, and State of Maryland, are held and firmly bound unto the State of Maryland, in the full and just sum of *Ten thousand*

Dollars, current money, to be paid to the said State of Maryland, or its certain Attorney; to which payment well and truly to be made and done, WE bind ourselves, and each of us, our

and each of our Heirs, Executors, and Administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this *sixth* day of *February*

in the year of our Lord one thousand eight hundred and sixty *five*

Whereas, by an order of the Circuit Court for Baltimore city, passed in a cause wherein ~~the said~~ *Victor Brunet, next friend of Victor Brunet et al. George H. Neal* rather are complainant

Complainant, and *The Mayor & City Council of Baltimore* are ~~defendants~~

the Defendants an injunction is about to issue to restrain the said defendant as prayed in the bill in said cause exhibited, upon the complainant filing a bond with security in the above penalty

Now the Condition of the above Obligation is such, That if the said complainant shall do and prosecute the said writ of injunction with effect, and satisfy and save harmless the said defendant if the same be not prosecuted with effect, and in such cases pay all costs and damages that may be occasioned by the issuing thereof, and shall in all things obey, abide by, perform and fulfil such decree and order as shall be made in the premises, then the above obligations to be void, otherwise of full force and virtue.

Signed, sealed and delivered in the presence of

William A. Fisher

George H. Neal



John Edward Lisco



John S. Barry



Solomon King



State of Maryland, Baltimore City, Ct.

I hereby certify, that on this *6th* day of *February*, 186*5*, personally appeared before me the subscriber, a Justice of the Peace of said State, in and for said City,

Wm A. Fisher and made Oath on the Holy Evangely of Almighty God,

that he knows the pecuniary circumstances of the within named sureties, and that they are worth the amount of the penalty set forth in the within bond, over and above their just debts and liabilities.

Wm C. Forrester, J.P.

13
1865

Ch. Ct.

No. Docket.

Chunet
father

4 vs.
Mayor & City Council
of Baltimore
INJUNCTION.

Served on the Mayor & City
Council of Baltimore and
Copy of Order left on the
6th day of February 1865
in presence of James E. Amos
also Copy of Order left
with Jesse Baskew Clerk
of the Criminal Court also
Copy of Order left with
(the Judges of the Appeal Tax
Court Joseph J. Sims Geo W Gordon
& Mrs. Sims) John J. Dancker
Sheriff

Filed 6th February 1865

Service of the within writ of injunction
commenced for the Mayor & City Council of
Baltimore
John J. Dancker
at Baltimore

MARYLAND
THE STATE OF MARYLAND
Worcester

MARYLAND, SCT.

The State of Maryland

To The Mayor and City Council of Baltimore City

Greeting;

Whereas, Victor Clunet & others

have exhibited to us, in our CIRCUIT COURT FOR BALTIMORE CITY, their Bill of Complaint for relief in Equity, and for AN INJUNCTION to restrain you the said

Mayor and City Council of Baltimore City your Officers, Agents and Servants from proceeding to enforce an ordinance entitled "An Ordinance to open a Street in continuation of Holliday Street from Baltimore Street to Second Street" And from taking any further steps or proceedings thereunder for the opening of such Street

until the matter can be heard and determined in equity.

NOW THEREFORE, these are to COMMAND and strictly to ENJOIN and PROHIBIT you the said

Mayor and City Council of Baltimore City, your Officers Agents and Servants from proceeding to enforce An ordinance, Entitled "An Ordinance to open a Street in continuation of Holliday Street from Baltimore Street to Second Street" And from taking any further steps or proceeding thereunder for the opening of such Street

until the further order of our said Court in the premises.

WITNESS the Honorable WILLIAM ALEXANDER, Judge of the Circuit Court for Baltimore City, the 9th day of January 1863

ISSUED the 6th day of February 1863

Samuel M. Evans Clerk.

Answer 13
of 1865
The Mayor and City
Council of Baltimore,
to the
Bill of Complaint of
Victor Clunet and Others.

C

Mr. Evans
File this Answer
for me
J. M. Casan
Att. for Clunet

Feb 17th February 1865

1
The Answer of The Mayor and City Council of Baltimore,
under the corporate seal thereof, to the Bill of Complaint of
Victor Charet, George H. C. Neal, and Others, in the Circuit
Court of Baltimore City exhibited.

This Respondent, in answer to said Bill, says that it admits
that the several acts of Assembly and Ordinances, mentioned in
said Bill, were duly passed at the respective times stated in
said Bill, and further, that the Commissioners of the Appeal
Tax Court proceeded, in execution of the duties which devolved
on them, under and by virtue of the said Ordinance in relation
to opening a street in continuation of Holliday street from
Baltimore street to Second street, and completed the corrected
statement of damages and benefits and explanatory map, and
caused the same so corrected, and certified under their hands and
seals and the hand and seal of their clerk, to be deposited in the
office of the Register of the City of Baltimore as one of the records of
the City, and that thereupon further action of this Respondent in
opening said proposed street was effectually suspended, by reason of
certain appeals by petition in writing to the Criminal Court of
Baltimore City, and which appeals are now pending in said Court.

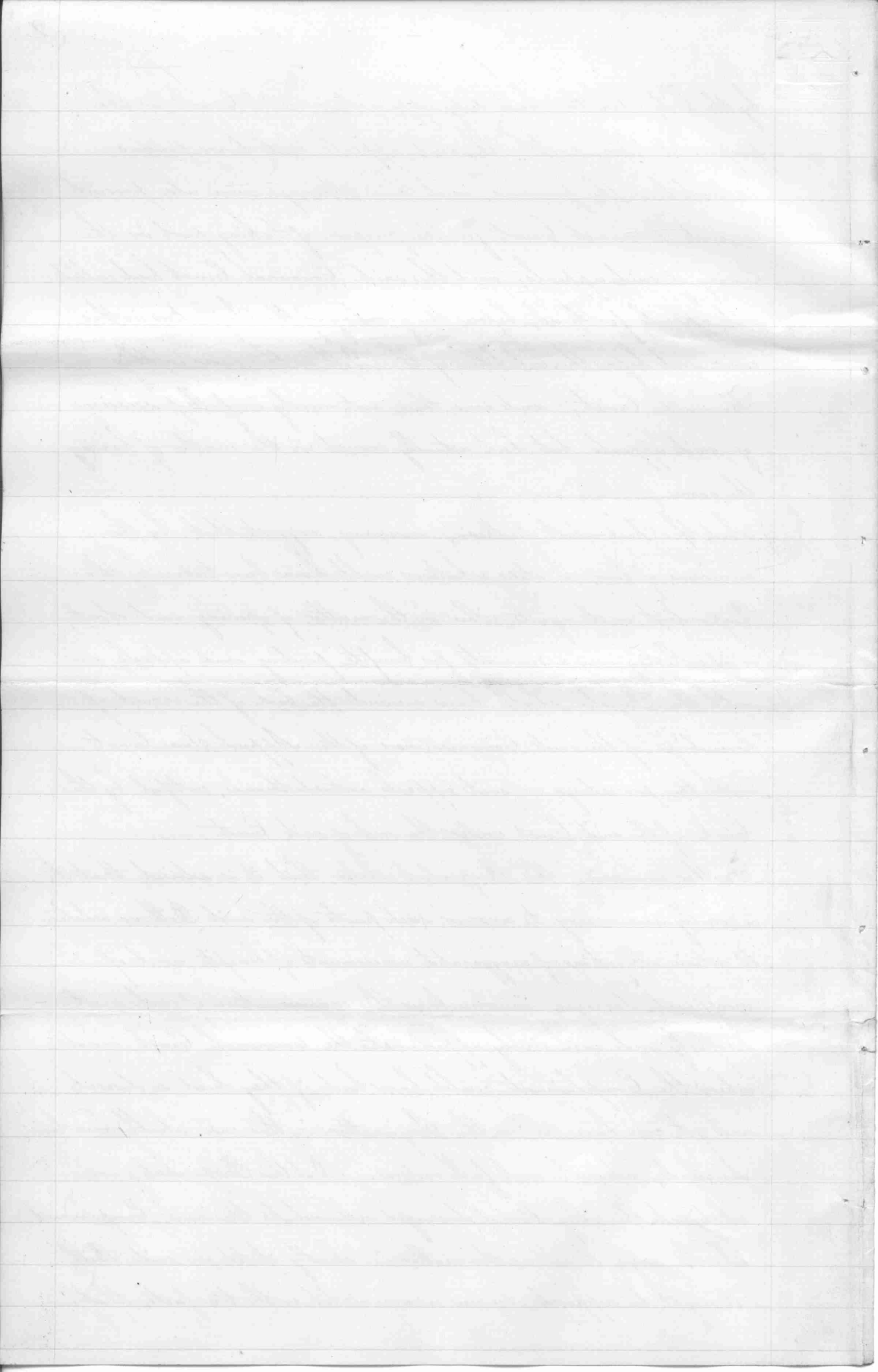
This Respondent further states that the said Court, after
appeals had been made as aforesaid, by apt proceedings, in conformity
with the directions of said Ordinance of 1858, possessed itself of the
record of the proceedings of the Commissioners of the Appeal Tax
Court, and of all maps, plats, documents, and papers connected
with such record, and the said Court, before the filing of the
Bill in this case, had appointed a day for hearing said appeals,
to wit, the sixth day of February instant, and this Respondent,



by the City Solicitor, had duly appeared in said Court for the purpose of taking part in the said appeals, and divers persons, interested in the premises, and their attorneys, were also present in said Criminal Court for the purpose of taking part in the hearing of said appeals; and the said Criminal Court had called said appeals for trial, before the granting of the Injunction in this case and before the exhibition of the Bill in this case in this Honorable Court; and was, then, not merely in full possession of said appeals but had actually moved in the matter of hearing the same.

And this Respondent, further answering, suggests that, by the provisions of law, no steps whatever could have been taken by this Respondent, or its agents, either in the matter of opening said streets, or in collecting any assessments for benefits, pending said appeals, nor until the Register shall have received the book of the record of proceedings of the said Commissioners of the Appeal Tax Court with the proceedings on said appeals, entered therein, certified by the Clerk of the said Court, under the seal of said Court.

Further answering, this Respondent states, that it is advised, that it is wholly unnecessary to answer such parts of the said Bill as relate to certain allegations of exaggerated assessments of benefits and of insufficient damages, inasmuch as the examination of such questions properly and exclusively appertains to the Criminal Court, and where the Complainants could have had, if they had so desired, and yet can have when the Injunction in this case shall have been dissolved, adequate and full redress. But this Respondent, in relation to the allegation of damages allowed to the said Complainant Neal, says, that as the matter is shortly stated in said Bill, it might be supposed, by one unacquainted with the facts, that

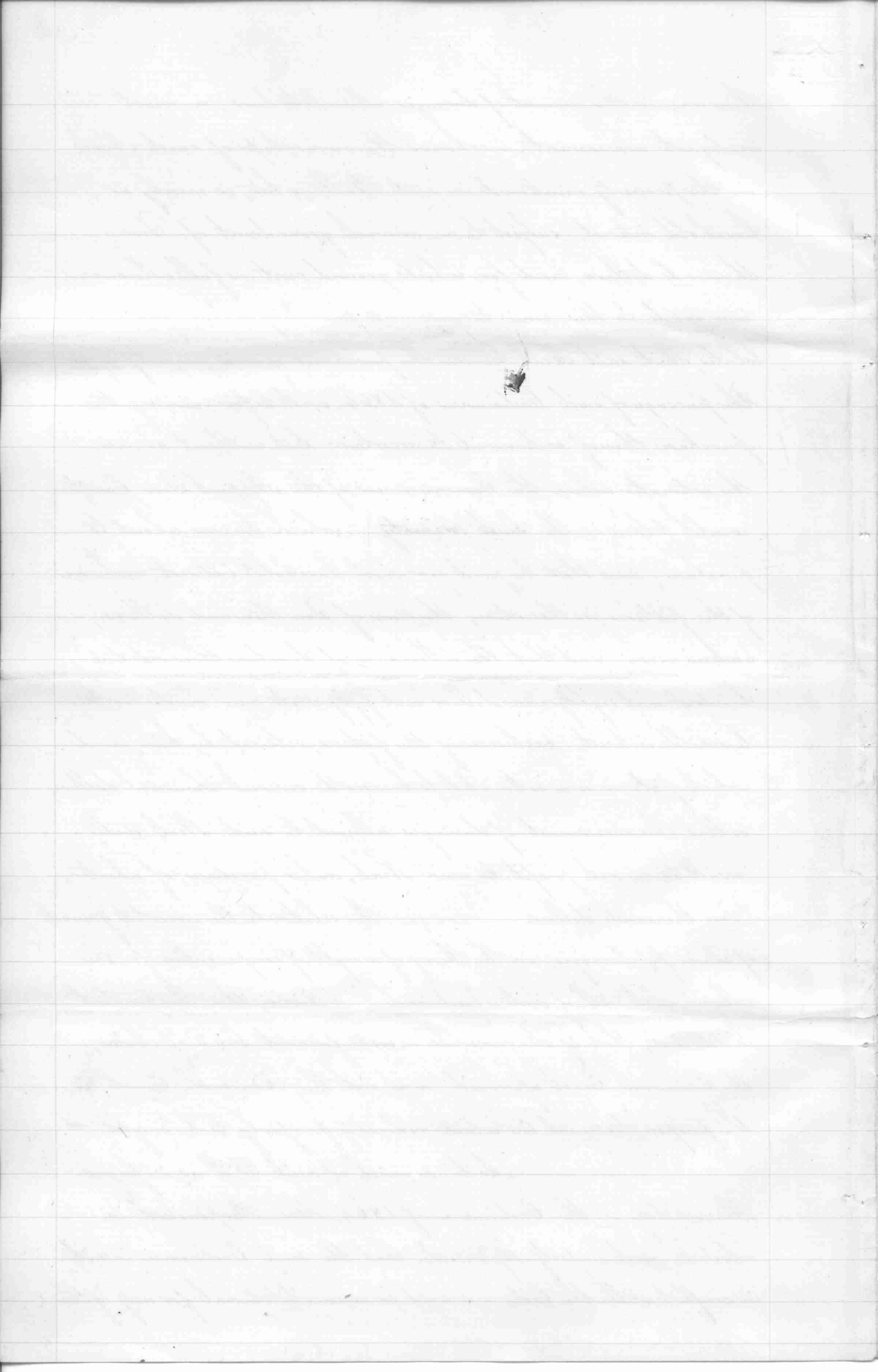


3

there was, in the amount of damages allowed to him, a most inadequate assessment; whereas the ownership of said Neal in the property mentioned in said Bill as his, is merely a leasehold interest, subject to an annual groundrent of Two thousand dollars, and for which ground rent a full allowance was made to the owner thereof; and this Respondent further states, that said Neal became the purchaser of said property after the passage of said Ordinance of 1864, and before making the purchase thereof endeavored to ascertain, but without success, the estimate which the Commissioners of the Appeal Tax Court would place on the said property which he was about to purchase; and that he paid for said leasehold interest, inclusive of the fixtures in the store, the sum of Ten thousand dollars, and no more, and that the allowance of Seventeen thousand two hundred and eightyseven dollars and fifty cents was made for the leasehold interest, exclusive of the fixtures, retained by him, and which fixtures are estimated to be worth several thousand dollars, so that the assessment of damages allowed to said Neal will result in a net profit to said Neal, on his purchase, of about Ten thousand dollars.

In relation to the asserted ground of claim for damages, on the theory of a right of compensation for the alleged good will of said Neal and said Sisco, this Respondent is advised, that if the same be a well founded basis of claim, the Criminal Court aforesaid, and not this Honorable Court, is the proper tribunal in which redress is properly to be sought.

As to so much of said Bill as impugns the validity of the Ordinance of 1864, this Respondent is advised, and respectfully insists, that the said Ordinance is not in conflict with the Code, nor void or unconstitutional for any of the

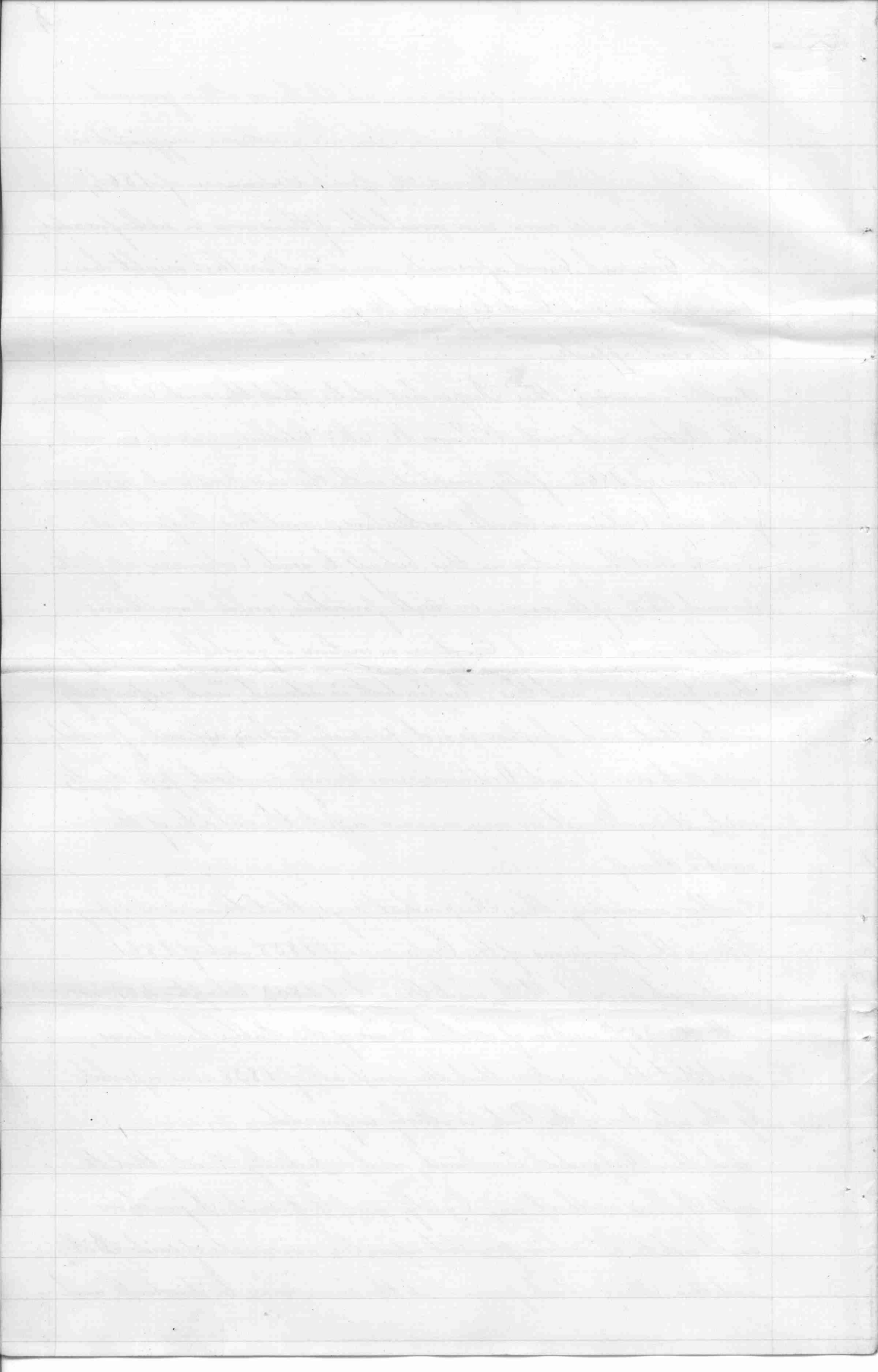


reasons or on any ground stated in said Bill, or other ground whatever, and respectfully insists that all questions, suggested in said Bill as objections to the validity of said Ordinance of 1864, could and would have been available, if the same be well founded, in the Criminal Court aforesaid, on a motion that might have been made in said Court to quash the proceedings carried thither by the said appeals.

Further answering, this Respondent states, that the said Catherine M. Raborg and said William W. Mc Clellan, named in said Ordinance of 1864, fully complied with the directions and provisions of the said Ordinance in all particulars, and this Respondent suggests that the objection, in this behalf, to said Ordinance, set forth in said Bill, if the same be well-founded, could have been made in said Criminal Court on a motion to quash the proceedings there pending; and this Respondent is advised, and respectfully insists, that said objection is not properly taken, nor well founded, and that even if said Ordinance was thereby rendered, *pro tanto*, void, it would not in any manner affect the validity of the residue thereof.

Further answering, this Respondent says, that there is no repugnancy between the provisions of the Ordinances of 1858 and of 1861, mentioned in said Bill, and the act of 1853, Chapter 451, or with the 837th section of Article Four of the Public Local Laws, and that the suggestion that the said act of 1838 was repealed by the adoption of the Code is utterly unfounded.

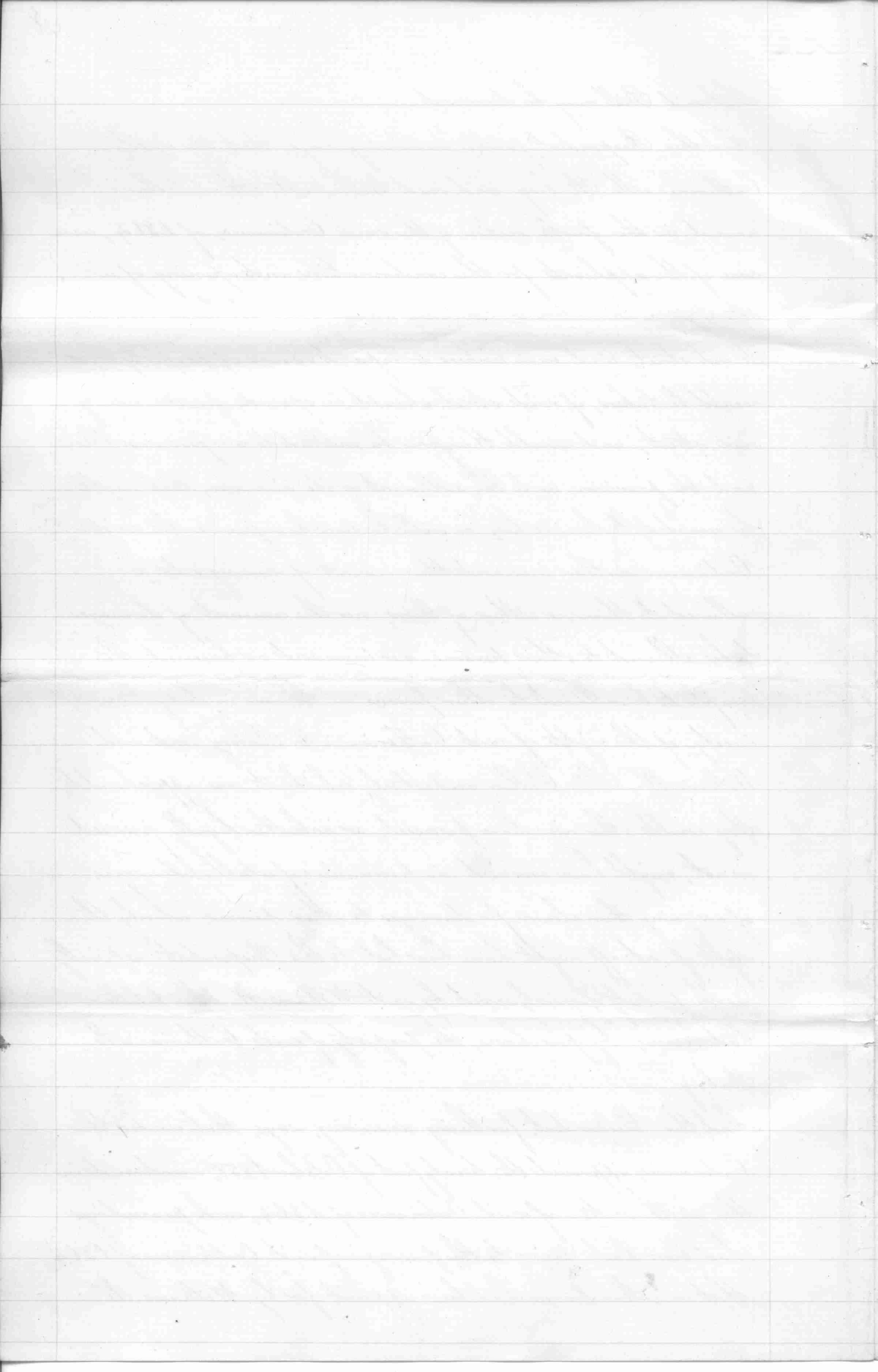
And this Respondent is advised, and respectfully insists, that the said Bill is without any Equity, and that said Injunction ought not to have been granted upon the averments of said Bill, and this Respondent prays that the same may be dissolved and



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that said Bill may be dismissed.

And this Respondent, further answering, says, that the said Catherine M. Raborg and said William W. Mc Clellan, named in the fourth section of the said Ordinance, of 1864, were some of the applicants for the condemnation and opening of a street in continuation of Holliday street from Baltimore street to Second street, and were owners or reputed owners of property that would be taken, if said street should be opened, for the use of said street, and would therefore be entitled to compensation therefor, and the provision, as to the settlement of the damages, that might be awarded to him or her, as will be seen by reference to said Ordinance, neither increased the amount of damages to be allowed to them, or either of them, nor the amount of damages to be allowed to other persons, nor increased or lessened the benefits to be allowed to other persons. It was in derogation, merely, of the rights of said Catherine M. Raborg and said William W. Mc Clellan respectively, which, it was apprehended, they would otherwise have possessed, or whether legally possessed or not, might have exercised in pursuance of established usage, of assigning their claims for damages to other persons, whereby the right of set-off might have been lost to this Respondent, especially as the property formerly owned by said William W. Mc Clellan had become, by purchase, the property of said Catherine M. Raborg.

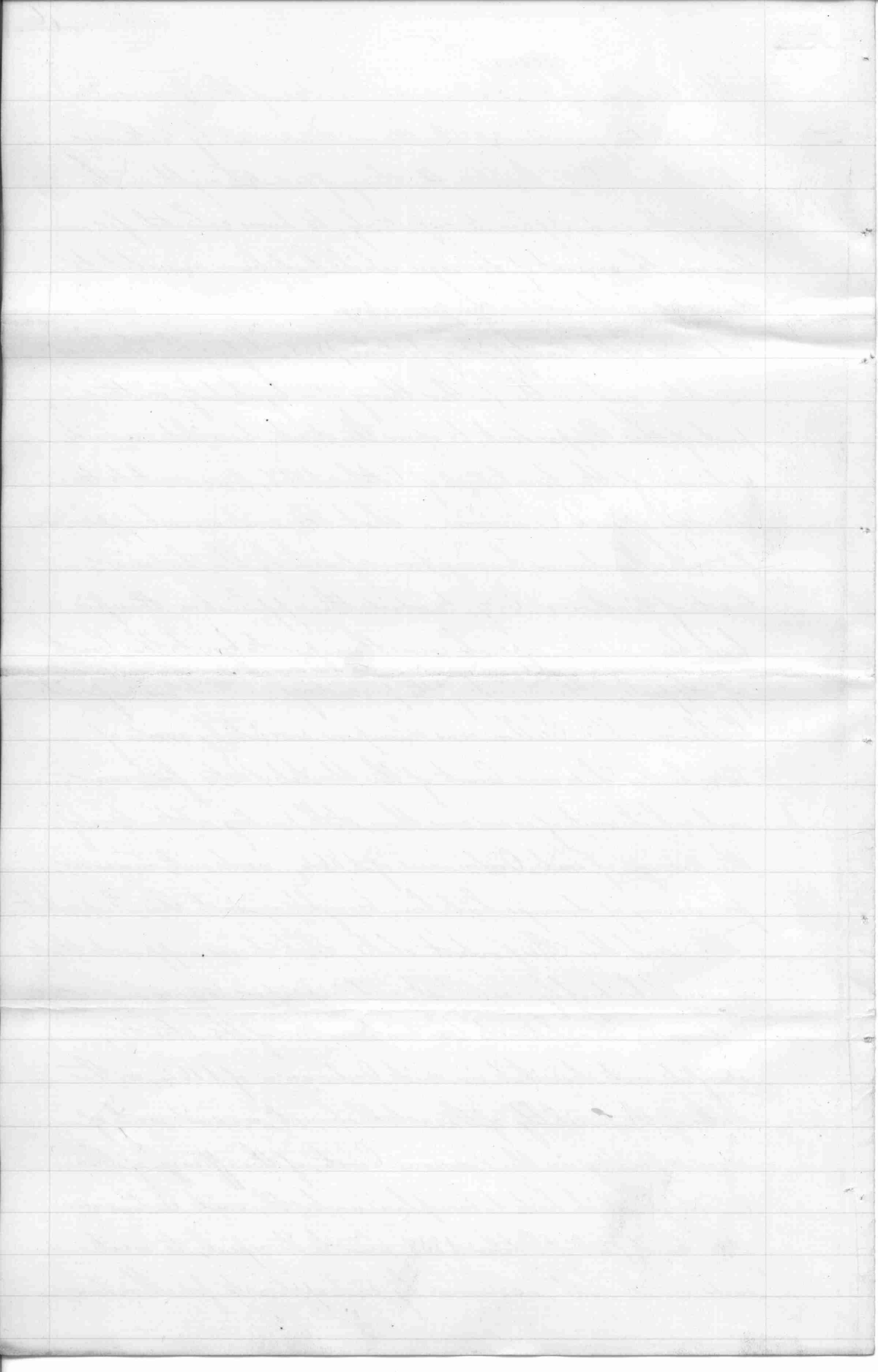
And this Respondent, furthering answering, says, that under the Ordinance, approved the twenty first of October 1858, mentioned in the Fifth section of said Ordinance of 1864, such proceedings had been had, prior to the passage of said Ordinance of 1864, that a Mandamus had been applied for by William W.



Elders

M^{rs}. Cellan, by the Deacons and Trustees of the German Reformed Congregation of Baltimore Town, and by Catherine M^{rs}. Cellan, based on the theory of a vested right on the part of the said applicants respectively, to have collected for their use the amount of damages which had been awarded to them respectively under the proceedings had under the said Ordinance of the twentyfirst of October, 1858, before the same was repealed; and on the further theory of a legal duty, on the part of this Respondent, to open the street, described in said Ordinance of the twentyfirst of October 1858, pursuant to the directions of said Ordinance; that the said several applications for said Mandamus having been refused by the Superior Court of Baltimore City, to which the application therefor had been made, appeals were thereupon taken to the Court of Appeals, the record of the proceedings in said case of said Catherine M^{rs}. Cellan was thereupon carried by writ of error to the Supreme Court of the United States for review; and which writ of error was then still pending at the time of the passage of said Ordinance of 1864, and suit, moreover, for recovery of damages had been brought against this Respondent.

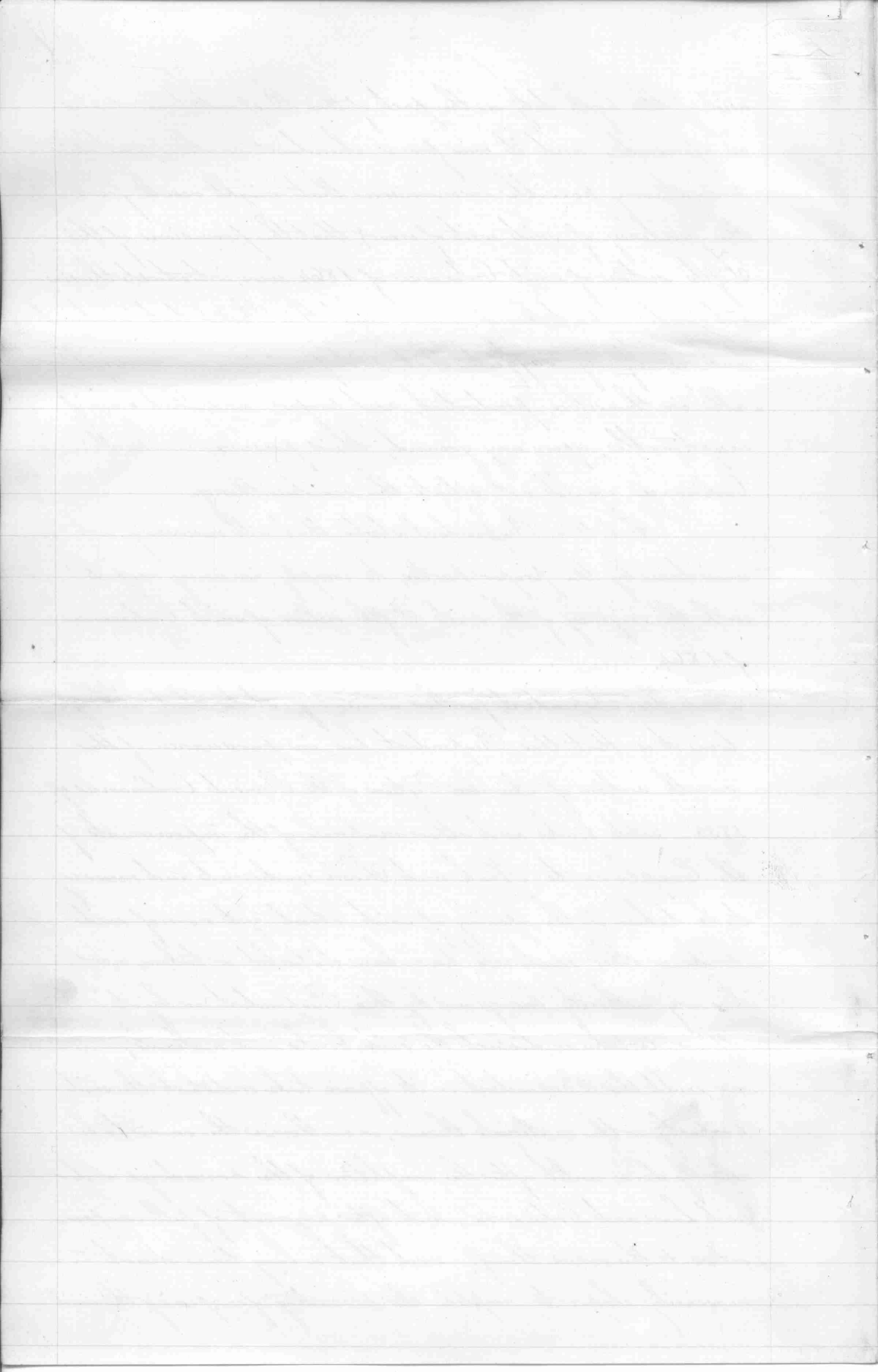
And this Respondent states, that it was supposed that it would be highly inexpedient and improper to pass a new Ordinance, in relation to the continuation of the streets, specified and described in said Ordinance of 1864, in the teeth of the possibility of the establishment, on said writ of error so pending in the Supreme Court, of the efficacy of the proceedings which had taken place under the said Ordinance of the twentyfirst of October 1858 prior to its repeal, to create such vested right, as claimed by said applicants for Mandamus,



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and of the legal duty on the part of this Respondent as claimed
as aforesaid, and it was from abundant caution, and to
prevent any possible inconvenience that might result from
the pendency of said writ of error, that the provisions of the
Fifth section of said Ordinance of 1864 were introduced therein,
and made a part thereof. And this Respondent is advised,
and respectfully suggests, that said provisions are unexception-
able in themselves, prudential, and proper, and that even if
exceptionable, upon any ground, their presence in said
Ordinance would not vitiate the residue thereof.

And this Respondent states that all necessary acts
were done by the proper parties, to comply, in every respect,
with the exigency of the said Fifth section of said Ordinance
of 1864.

And this Respondent, further answering, states, that although
true it is that this Respondent has, in pursuance of the
seventh section of Number Fifteen of the Revised Ordinances of
1858, sold bricks and other materials of the improvements of
the Complainants Neale and Cisco's condemned and necessary
to be taken in the opening of said street, yet none of said
bricks or other materials have been disturbed or taken, nor
has any authority been given by this Respondent or by its
officers, to take or disturb the said bricks and materials,
nor could this Respondent or its officers take or disturb the said
property or the materials therein, or authorize the same to be
actually done, until after the completion of the proceedings under
said Laws and Ordinances, and after payment of full compen-
sation to the owners thereof, and that a long time must
necessarily elapse to complete the proceeding for opening the said



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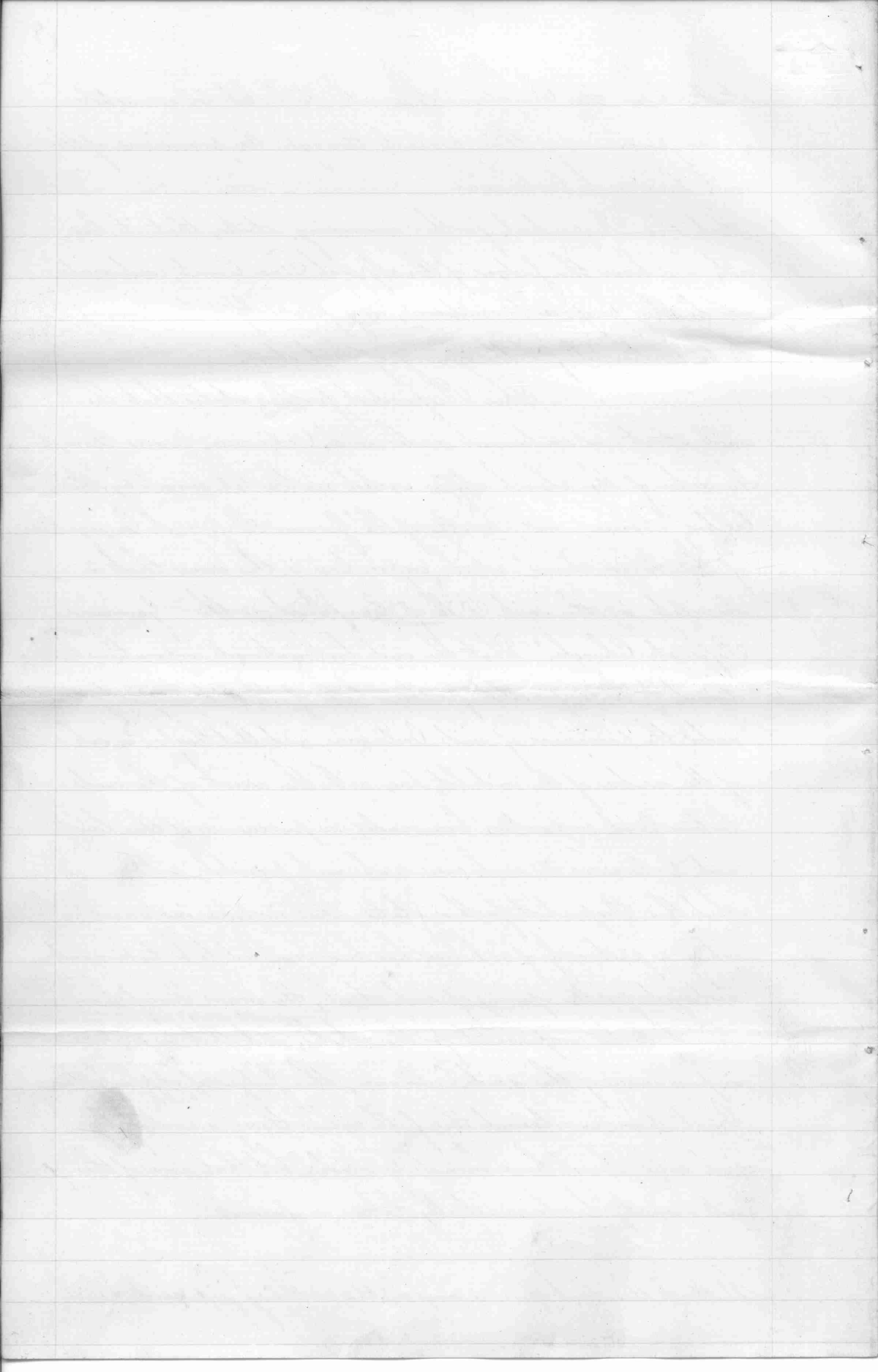
street, before the Complainants can be disturbed in or ousted of the possession of their property through the provisions of the said Laws and Ordinances.

And this Respondent, further answering, states, that it has not, nor have the Judges of the Appeal Tax Court, condemned, nor do they propose to condemn, any property not necessary to be condemned for the opening of said street.

This Respondent further states that the said street, as condemned under said Ordinance, passes through the centre of the church edifice erected on the lot owned by the Elders, Deacons, and Trustees of the "German Reformed Congregation of Baltimore Town," which corporation is the same that is described in the said Bill of Complaint as the "German Reformed Church." That the said last mentioned corporation has claimed to be compensated for the whole of its said property, under the provisions of said Ordinance, and that therefore a sale of the residue of the said lot has, with the assent of the said last mentioned corporation, been made, in pursuance of the law and Ordinance in such case made and provided.

And this Respondent further states, that in some instances where a part only of a house has been required to be taken and destroyed for the opening of said street, the owners thereof have claimed to be compensated for the whole, and that in such cases, in pursuance of the said Ordinance, the Judges of ^{the} Appeal Tax Court have ascertained the full value thereof accordingly, and sales thereof have been duly made, but that none of the said property has been actually taken as aforesaid.

Without this that there is any matter or thing in said Bill



necessary or material to be answered unto, and not herein or
 hereby well and sufficiently answered unto, confessed or
 avoided, traversed or denied, is true. All which matters
 and things this Respondent is ready to aver, maintain, and
 prove as this Honorable Court may direct. And this Respondent
 prays that said Injunction may be dissolved, and that said
 Bill may be dismissed, &c.

In verification of the foregoing Answer, the same is filed under the
 corporate seal of the said Defendant, and under the hands of
 the Mayor of the City of Baltimore, and of the City Councillor
 and of the City Solicitor of the Defendant.

John Larson
 City Solr.

John Lee Chapman Mayor

Wm. Price
 City Councillor.



State of Maryland,
 City of Baltimore, to wit.
 On this thirteenth day of February, in the year of our Lord eighteen
 hundred and sixty five, before the subscriber, one of the justices of the
 Peace of the State of Maryland in and for the City of Baltimore, personally
 appeared the Honorable John Lee Chapman, Mayor of the City of
 Baltimore, and made oath on the Holy Evangelij of Almighty God
 that the facts set forth in the foregoing Answer are true, as
 therein stated, to the best of his knowledge, information, and belief.

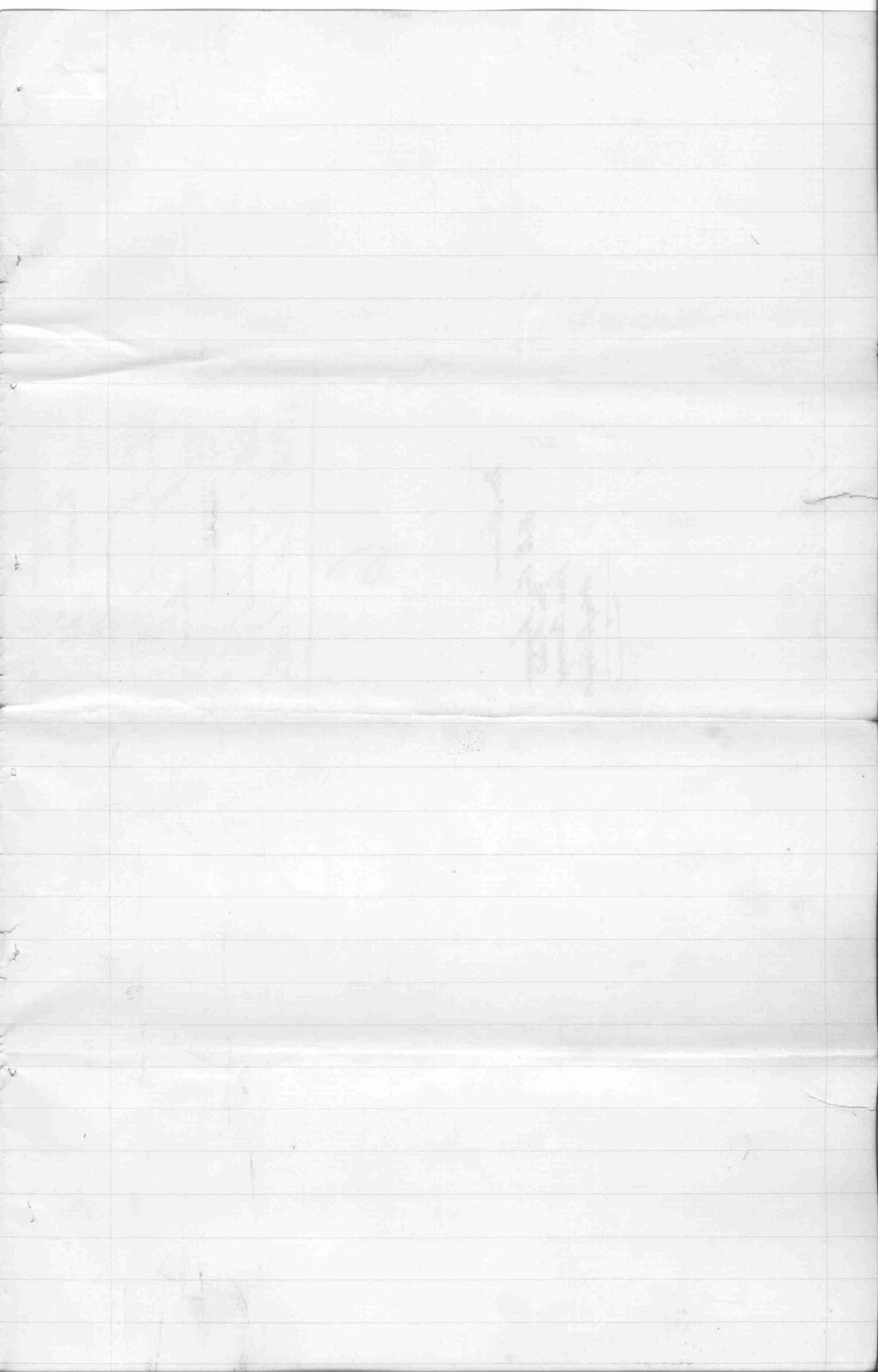


David S. Freed D.D.

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Commit others

13
1865

or
Mayor & City
Council

Prayer of Appeal

7

Mr. Evans

Clear file

Mr. Carson

Mr. Price

Also for

Receipt

Feb. 17th February 1865

Claret + others

vs

The Mayor and City
Council of Baltimore

In the Circuit Court of
Baltimore City.

Mr. Evans

Enter an Appeal by the Respon-
dent from the order of this Court
granting an adjunction in the
above cause

John Carson
Solicitor for
The Mayor & City
Council of Baltimore,
and City Solicitor

Wm. Fair
City Com. Clk.

The Mayor & 13
etc 1865
Clunet & others

Copied

Mr. Evans

Please file

Geo. Carson

A. W. Machen

Stratford, Pa.

Filed 28 Aug. 1865

The Mayor & City Council
of Baltimore

Court of Appeals of Md.
April Term 1865-

Victor Clunet next friend
of C. Clunet & others, Samuel
H. B. Merryman and others

James L. Bartol, Justice
delivered the opinion of
this Court.

This is an appeal from an order of the Circuit Court of Baltimore City passed on the 6th day of February 1865 granting an injunction to restrain the appellant its officers agents and servants from proceeding to enforce an ordinance entitled "an Ordinance to Open a Street in continuation of Holliday Street from Baltimore Street to Second Street" and from taking any further steps or proceedings thereunder for the opening of such street, until the matter can be heard & determined in Equity.

The complainants are the owners of property on the South side of Baltimore Street, & the apprehended damage & injury to result to them from the execution of the ordinance, are sufficiently alleged on the face of the bill to entitle them to maintain the suit, provided a Court of Equity has jurisdiction of the cause, and the objections urged to the validity of the ordinance be well founded,

These objections will be first considered, they are set forth by the bill in a very clear and forcible manner & have been presented in the argument with very great ability and power, Indeed the case has

been most ably argued on both sides; and it is a source of regret that in the press of business upon the Court, and the desire of rendering a speedy decision; we have not been able to enter upon so thorough an examination and discussion of the interesting questions involved, as their importance deserves. We must content ourselves with a brief statement of the conclusions we have reached, after as full an examination of the authorities and consideration of the subject as we have been able to make.

By the second section of the Ordinance the Judges of the Appeal Tax Court in the condemnation and opening of the proposed street are required to proceed in accordance with the provisions of ordinance No 15 of the Revised Ordinances of 1858 approved June 5. 1858 except as otherwise provided by the ordinance approved February 28. 1861. This last ordinance merely abolished the office of Commissioners for opening streets and conferred their powers upon the appeal tax Court. The exception therefore need not now be more particularly noticed.

By the Revised Ordinances of 1858 No 15 Sec 7, it is provided ^{that} in every case where it shall be necessary to effect the object proposed, that a part only of a house and lot of a lot shall be taken and used, or destroyed, and the owner thereof shall claim to be compensated for the whole. The Commissioners shall ascertain the full value thereof, as if the whole lot and improvements were necessary to be taken

and used for such proposed object."

It then provides for the payment to the owner of the whole of such valuation, and for the sale of the residue of the lot, not necessary to be taken and used for the street; and the amount which is derived from such sale is appropriated to the payment of the expense of the improvement, thereby diminishing to that extent the cost of the work assessed upon the parties benefitted.

It is contended that this provision of the ordinance is illegal and invalid, because it is taking the property of a citizen when it is not required for public use; contrary to the constitution and laws of the state. This provision did not originate with the ordinance of 1838; it is found in that of the 9th of March 1841 passed to carry into effect the powers granted to the Mayor & City Council by the act of 1838 ch 226. The same provision is found in every ordinance of the city passed since that time, in relation to this subject, and which have been repeatedly before this Court for examination & construction, and repeatedly declared to be a valid exercise of the power delegated by the act of 1838 ch 226, see *Alexander & Nelson vs The Mayor & City Council of Baltimore* 3 Gill 383 *Richardson vs Same* 8 Gill 433. *The Methodist P Church vs Same* 6 Gill 391 *Stewart vs Same* 7th Md 300 State at the relation of *McClellan vs Graves* 19 Md 357.

It is true that the particular objection now made

does not appear to have been suggested in any of those cases; but the judgment of the Court pronounced in some of them necessarily covered it, and would be inconsistent with the position here taken by the appellees. In the face of these repeated decisions we should feel very great hesitation in pronouncing unconstitutional and void a provision of an ordinance appearing to have had so repeatedly the sanction of the Appellate Court, and which has been in operation for twenty four years. But looking at this as a new question, wholly uninfluenced by any previous decision; we should have little hesitation in saying that this provision of the ordinance is free from the objection urged. It does not sanction the taking of any property from the owner without his consent, not necessary for the public use. If more land is taken in any case than is required for the bed of the street, it is always done with the consent of the owner, to whom the option is given of retaining the fragment of a lot when part is taken by the City, or of claiming compensation for the whole, and allowing the part not taken to be sold for the benefit of the parties charged with the cost of the improvement. They are not injured by the proceeding, for there can be no more certain mode of ascertaining the value of the part of a lot taken, than by selling at public auction the part that is left, and deducting from the value of the whole the sum

realized by the sale

In the matter of Albany St. the Supreme Court of New York expressed the opinion that such a provision would be free from objection 11 Wend 157.

Properly construed the ordinance does no more than to prescribe a mode by which the true value of property taken for public use may be ascertained, and the parties benefitted assessed therefor. In the opinion of this Court, the ordinance before us is not obnoxious to the objection made by the appellers in the first point of their brief. We are also of opinion that the objection to the ordinance stated by the bill, and presented in the brief of the appellers in their third point, is not well founded. This point is that the ordinance is invalid because it did not provide for an appeal to the Superior Court from the decision of the Appeal Tax Court. By the terms of the Ordinance of 1857, which govern the case before us, the appeal is directed to be made, to the City Court of Balt. The appellers insist that by the constitution and laws the right of appeal to the Superior Court is granted, at the option of the party appealing; and that it is a fatal objection to the ordinance, that it deprives a party aggrieved of this option, and limits his appeal to the Criminal Court alone. At the time of the adoption of the constitution of 1857, the exclusive jurisdiction over such appeals was in the City Court, by that constitution the

same jurisdiction was conferred upon the Criminal Court. It was not given to the Superior Court by the 11th Section of the 4th article.

The general words there used must be construed as defining the original jurisdiction of the Superior Court, and do not refer to appeals from inferior tribunals, or in street cases, they are regulated by Statute. By the act of 1853 ch 457 the Superior Court was authorized to exercise jurisdiction over Appeals in street cases concurrently with the Criminal Court. We see no reason why that act was not a constitutional exercise of legislative power. But that inquiry is not involved in the present case; conceding that act to be constitutional; it was still competent for the Mayor & City Council in legislating on such cases to provide for an appeal either to the Superior or Criminal Court, they having concurrent jurisdiction. Such ordinances are passed in execution of the powers conferred by the act of 1838 ch 226, which simply requires, by its 2nd Section, that provision shall be made securing to the owner, the right of trial by jury. This is fully accomplished, whether the appeal be to the Superior or the Criminal Court. It is eminently proper that the ordinance should designate the Court to which such appeal will lie in any given case, otherwise the greatest difficulty and confusion might arise from conflicting decisions of different juries in regard to the

same subject matter of inquiry; if the various parties interested had the right of prosecuting an appeal, at their option before one or the other Court.

That such legislation by the City has not heretofore been objected to, will appear from the case of Stewart v. The Mayor & C. C. of Balto 7 M^o 500. In which this Court had before them the Ordinance of 1853 N^o. 58 approved June 8th 1853 after the Act of 1853 went into effect, and in which parties were tied down to their appeal to the Criminal Court.

But on this question we think the Code Vol 2 art 4 Sec 837 is conclusive, and free from all doubt or difficulty. By that section the power and option is plainly given to the Mayor & City Council, in providing for appeals, to direct that they shall be taken ^{either} to the Superior or the Criminal Court.

One more objection to the validity of this ordinance was insisted on in the argument and remains to be considered, this is fully set out in the bill and very clearly stated in the second point of appellee's brief. It arises upon the construction of the 4th and 5th Sections.

By the 4th Section it is directed that "in the Settlement with Mrs. M. McClellan or Catharine M. Raborg for any damages which may be awarded him or her for property condemned under the provisions of this ordinance" certain sums shall be deducted before received by them under ordinance N^o. 59 approved October 21. 1858, and also that one of the sums so

deducted shall be paid over to A. Hoehn & Co, or credited there for upon any assessment that may be levied upon them under the ordinance.

By the 5th Section it is enacted and ordained that "The ordinance shall not take effect until certain things therein specified shall be done; and M. Eldan and Raborg or their representatives have given their written assent to the provisions of the 4th Section."

These provisions it is said render the ordinance void because it was not competent for the Mayor and City Council to delegate their legislative power over the subject, and make the ordinance depend for its force & efficacy upon the will of others; and because it appears from these sections that the ordinance was not passed on consideration of public necessity and convenience; but was the result of a bargain or contract between the Mayor and City Council and the parties, whose assent is required to give it effect, and operation.

The decision of this point involves considerations of much interest and importance, and by no means free from difficulty; while on the one hand municipal Corporations having delegated to them a limited jurisdiction, and being entrusted with the power of dealing with the property and rights of the Citizen, ought to be restrained within the strict limits of their authority; and when they transgress those limits, it is the duty of the Courts to declare their acts void, insofar as they have exceeded

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their powers; Yet on the other hand when the exclusive jurisdiction and power to legislate upon a given subject have been conferred by law upon such a corporation, every intendment & presumption ought to be made in support of their acts, and Courts of justice should never pronounce them void, unless their nullity and invalidity are placed beyond reasonable doubt.

The rules and principles governing Courts of justice, when dealing with such subjects, are very clearly expressed by Chief Justice Shaw in his able opinion pronounced in the case of Wellington & others 16 Pick 95, 96, 97. In that case the court was dealing with an act of the legislature; but the rules of construction there laid down are equally applicable to the legislative acts of a municipal corporation passed within the scope of their delegated powers.

The ordinance before us was passed in the exercise of the power of eminent domain delegated to the Corporation by the General Assembly, and defined in the Code Vol 2 art. 4 sec. 837. By that section the power to lay out and open a street, "which in their opinion, the public welfare or convenience may require," is clearly conferred; it is to be exercised for the public good, and only when in the opinion of the Mayor & City Council "the public welfare & convenience require," to their discretion alone the law confides the decision of the question of the propriety of opening any street; their judgment

upon that question is therefore final, and cannot be examined or reviewed by Courts of justice, The Subject is confided to their judgment & discretion which they alone must exercise and cannot delegate to others.

If ~~an~~ ordinance were brought before us passed by the Mayor & City Council, manifestly not in the exercise of their discretion looking to the public welfare alone, but based upon other considerations, as the result of a bargain with individuals interested in the work, or dependent for its efficacy upon their will, or upon matters wholly extraneous to the Subject of legislation and altogether unconnected with the question whether the public convenience required the street to be opened, or the expediency of undertaking the work. If such a case should arise, this Court would not hesitate to say, both upon the plain words of the Code, and upon the highest grounds of public policy that such an ordinance would be null and void, notwithstanding it might profess on its face to be passed for the public convenience alone.

In our opinion that is not the case with the ordinance now under consideration, The bill does not charge that there was any fraud in procuring its passage or that it was based upon any corrupt or dishonest bargain between the Mayor & City Council and the parties named in the 4th & 5th Sections. The objection is founded upon the

provisions contained in those sections, and the ordinance must stand or fall according to the construction of these provisions.

The 4th section does no more than provide the mode by which the damages that may be awarded to McClellan or Mr. Raborg shall be adjusted, retaining out of the amount so awarded a sum previously received by them from the City under the ordinance No 59 of October 1858, which was an ordinance providing for opening this same street, and which was afterwards repealed, after having been in part executed.

No valid objection can be made to this provision, no additional burden was thereby imposed upon any of the property holders.

The arrangement is one founded in justice, and this court is not at liberty to presume that such an arrangement constituted an unfair or corrupt bargain.

The 5th section provides that the ordinance shall not take effect until certain cases of mandamus lately pending in the Court of Appeals, and removed thence by writ of error to the Supreme Court, shall have been dismissed, and other cases against the City, growing out of the repeal of the ordinance of October 1858, shall have been released & abandoned; and further requires the assent of McClellan and Mr. Raborg to the provisions of the 4th section, as a condition precedent to the ordinance going into effect. This

is not delegating to others the discretion vested by law in the Mayor & City Council. A valid law may be passed, to take effect upon the happening of a future contingent event, even where that event involves the assent to its provisions by other parties. That was decided in *The M & C. Co. of Balto vs The Northern Central R. W. Co.* at the Term 186 , The same principle applies to an ordinance passed by a Municipal Corporation, provided the subject matter of the ordinance is within the legislative powers delegated to the corporation, and provided it does not appear that the contingent event is foreign to the subject matter of the ordinance and wholly unconnected with the consideration of the public convenience upon which alone the ordinance must be based,

The same observation will apply to the other contingencies mentioned in the 5th section. A reference to the cases of *Mandamus* reported in 19 M. 351 will show the connexion between them and the subject of the ordinance; and the great importance of the provisions in the 4th and 5th sections, without which much confusion and difficulty might result from the execution of the ordinance.

These provisions appear to us to be germane to the subject of the ordinance, and as embracing items or elements which might properly enter into the consideration and decision of the question of public convenience, or the expediency of undertaking the

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contemplated improvement, and therefore might properly constitute contingencies upon which the ordinance was to depend. Such would be the intentment and presumption of the law; even if the subjects embraced in these sections were less obviously and closely connected with the very question of the expediency of passing the ordinance than they appear to be.

We have said it is necessary to the validity of such an ordinance that it shall be passed only upon consideration of the public good, and be based upon the judgment and decision of the Mayor and City Council that the public convenience requires its passage. By the first section it is adjudicated in unqualified terms, that the public convenience requires the street to be opened. We see nothing in the other provisions to justify us in saying that this is a mere colorable pretence, and that the ordinance was passed upon any other ground, or consideration than that which the law prescribes, and which is left to the exclusive jurisdiction and control of the Mayor & Council. These conclusions are the result of an examination of the authorities cited by the counsel in argument all of which have been examined, but it is unnecessary to refer to them here.

As we are of opinion that the ordinance is not invalid for any of the reasons set forth in the bill of Complaint; it becomes unnecessary for us to express any opinion upon the question of jurisdiction.

conceding the jurisdiction to exist in equity, the appellees are not entitled to relief by injunction upon the allegations of their bill.

An order will be passed reversing the order of the Circuit Court and dismissing the bill with costs to the Appellants.

Order Reversed & cause remanded.

True copy
Out.

George Carlo, Clerk
Court of Appeals of Md.

The Mayor & City
Council of Baltimore

vs

Victor Clumet &
others.

Appeal from the Circuit
Court for Baltimore City.

N^o 211.

The Appeal in this Cause standing ready for hearing and having been argued by the Counsel for the respective parties, the proceedings have since been read and considered: It is therefore this twelfth day of July in the year of our Lord one thousand eight hundred and sixty five, by the Court of Appeals of Maryland and by the authority thereof, adjudged, ordered and decreed that the Order of the Circuit Court from which the appeal in this Cause was taken, be and the

said is hereby Reversed and the bill dismissed
with Cost to the Appellants and the cause
remanded for further proceedings.

Richard J Bowie
Jas L Bartol
S Morris Cochran
D. Weisel.

Maryland Secy

George Earle Clerk of the
Court of Appeals of Maryland do hereby Certify
that the foregoing is truly taken and Copied
from the Original Opinion & Decree filed in the
above case, among the records and proceedings of
the said Court of Appeals.

In Testimony whereof I have
subscribed my name as Clerk
and affixed the seal of the said
Court of Appeals this nineteenth
day of July A. D. 1865.

George Earle Clerk
Cot of Appeals of Md

