OPINION.

LAW DEPARTMENT.

Baltimore, July 11, 1904.

Hon. W. Cabell Bruce,

City Solicitor.

Dear Sir:-

1657

You have asked me to make a report to you in reference to the clause in Section 25 of the new City Charter bearing upon the removal, by the Mayor, for cause, of the officials therein mentioned. The clause under consideration is as follows:

The Mayor shall have the power to remove at pleasure, during the first six months of their respective terms, the heads of all departments or members thereof, heads of sub-departments or members thereof, municipal officers not embraced in a department, and special commissions or boards, or members thereof, appointed by him; but, after six months, the Mayor shall only remove said officials for cause, after charges preferred against them, notice given and trial had before the Mayor.

1658

1659

I understand that what you desire is an opinion as to whether or not the action of the Mayor in removing officials for cause, after the expiration of six months, and after charges have been preferred against them, notice given and trial had, is open for review by any other tribunal, or whether his finding on the evidence is final and conclusive.

The exact question has never been decided by our Court of Appeals, although there have been a number of cases bearing upon the removal of public officers.

On page 429 of Vol. 23 of the Second Raition of the Amer. & Eng. Enc. of Law, title "Public Officers", the law on the point now under consideration is stated as follows:

"If the ramoval is authorized to be made only for cause, either general or specific, the courts may inquire into the existence of the jurisdictional facts, whether the charges upon which the removing power acted were legal cause for removal, or whether the cause was sufficiently specified. The judgment of the removing power on the evidence cannot be departed from, nor can its discretion, exercised in a legal manner, be controlled.