

File No. 10136 Continued.

OPINION.

## LAW DEPARTMENT.

Baltimore, June 16th, 1909.

Hon. Edgar Allan Poe,  
City Solicitor.

Dear Sir:-

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As requested by your favor of June 14th, I have examined the proposed Ordinance repealing the Ordinance for the opening of Covington street, and also the letter from Mr. Edward L. Ward to yourself, dated June 7th.

Ordinance No. 12, approved March 19th, 1891, directed the Commissioners for Opening Streets to condemn and open Covington street, from Cross Street Southward to Fifth Lane. Mr. Fendall tells me that this ordinance was carried out; that the damages and benefits were duly assessed and sustained by the Courts; that they were then duly paid and all the proceedings are now in the City Librarian's office.

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It seems, however, that the street, although thus legally opened and condemned, has never been physically graded or paved. In fact, the bed of the street is still occupied by a number of houses which were there before the condemnation took place, and a few years ago Mr. Fendall, becoming aware of this fact, took up the matter with Mr. Bruce, and, together, they arranged with the owners of the houses that they should pay rent to the City for them.

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Mr. Ward seems to represent certain property holders, who paid their benefit assessments. They desire to get back the assessments which they thus paid, and the procedure proposed for this purpose is to pass the ordinance which has been referred to you, the first Section of which repeals ordinance No. 12 of 1891, for the opening of Covington street, and the second Section of which directs the benefit assessments to be refunded.

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I do not think that this ordinance should be passed. It is perfectly well settled in Maryland that the system for opening and condemning streets is totally different from the system for grading and paving streets. These two systems are provided for by different laws and ordinances; are executed by different officers and are governed by different rules and regulations.