

File No. 13027

Baltimore, February 12, 1912.

Eugene Grannan, Esq.,
President of Commissioners
for Opening Streets,
City Hall, Baltimore.

Dear Sir:

152 Mr. Henry F. New, of the Commissioners for Opening Streets, requests me to advise the Commissioners whether it was necessary or proper to allow damages to the owners of property abutting on Henrietta street, west of the west side of Eutaw street, or east of the east side of Howard street, for the closing of Henrietta street between the east side of Eutaw street and the west side of Howard street.

By the City Charter, Section 6, sub-section 26, the Legislature conferred upon the Mayor and City Council of Baltimore full power and authority to provide for closing up, in whole or in part, any street &c., "and to provide for ascertaining whether any and what amount in value, of damages, will thereby accrue to the owner or possessor of any ground or improvements within or adjacent to said City, for which said owner or possessor ought to be compensated."

The power of the City to close streets was distinctly recognized and affirmed by the Court of Appeals in the following cases:

Van Witsen vs. Gutman, 79 Md. 405.
Brenge, vs. Baltimore, Daily Record, July 7, 1911.

In the latter case the Court said, "A street cannot be closed even for a public purpose without just compensation to those entitled to it."

In the first of the above cases, the plaintiff was the owner of property abutting on an alley between the part sought to be closed and the next public highway; in the second of said cases, the part of the street sought to be closed was upon and immediately in front of the property of the plaintiff, so that the decisions in said cases have little bearing upon the present inquiry.

To entitle a property owner to damage for an obstruction in a public street, he must establish some special and particular damage, different, not merely in degree, but different in kind from that experienced in common with other citizens, and the mere fact that by reason of the obstruction the plaintiff was obliged to travel a longer