He also gave in evidence the resolution of the City Council therein referred to, being the bill of the ___ 1817 and to be found in the ordinances of the year page 43. He also gave in evidence the following resolution of the City Commissioners, fixing the grade of Dulany Street dated June 19th 1817 and the note thereto appended

"Tuesday, June 19. 1817. The full Board met. Resolved that Dulany Street from Pond Street Easterly, have an ascent or descending grade, to the west gutter of Martin's Street meeting the grade as hereafter established, and the E. gutter of Martin St. to be carried across Dulany Street six inches above the level of the W. gutter, to ascend six inches to the E. line of said Street, and from thence ascend 1½ inches in 10 feet, to the center of Argyle Alley, and from thence descend 9 in. to the W. gutter of Ann St. which is to cross Dulany, and the east gutter to be 4 inches higher than the west; and from thence to ascend with a regular grade of one foot 6 in. in 10 ft. so as to meet the grade of the turnpike road on the surface at or about the old City line E. of Castle Alley, reserving the right on the grade from Ann St. to Fairfax, Washington St. of the alleys within said limits across Dulany St. by giving the cross gutters the proper descent and ascent, so as to raise proper wells on said cross streets and alleys. Note. The foregoing grade will rise about 18 in. on the E. side of Martin St. and at Argyle Alley about 21 inches and will require raising at Ann St. and Fairfax St. each about 12 inches above the present surface, and will sink at Washington St. about 4 inches below the present surface."

He also gave in evidence the plan and estimate of John Boulden for carrying the water complained of eastward into Harris' Creek through Miles Street, as shewn on the accompanying plat in the City Atlas dated February 1st 1814 entitled "A plat of the grounds east of Ann Street to Harris Creek, with levels for a canal proposed by John Boulden at the instance of the Commissioners Wardens of the City of Baltimore, together with an estimate of the expense of constructing a canal from Dulany & Ann Street to Harris' Creek at Wicke's Mill and signed by E. Ellicott, John Snyder and W. McDonald, viz, it was admitted were the last Wardens appointed by and acting under the Defendants. The plaintiffs also gave in evidence the whole of said plat which it was agreed by both parties that the Defendants should and could produce in the trial of this cause all the arguments of this cause, to be regarded as part of their respective exceptions. The plaintiff also gave in evidence another plat in the City Atlas, recording which the same agreement was made, the last mentioned plat is described on the face thereof as having been made at the instance of Edward Jenkins Esquire, Mayor of the City of Baltimore, for the information of the City Council, is dated December 1822 and signed John Boulden, upon it is delineated that part of the City bounded north by Monument Street, west by Market Street, and east by Calajesco Street and Harris' Creek.

The plaintiff further to support the issue on his part offered proof to the jury