a highway to the use of the community. He may confer a title upon the municipal corporation by deed, or if the public necessities require it, the city may condemn the property for a street; but in the latter case it must make compensation therefor to the owner. But neither course having been pursued in this case, the title remains in the same condition it was at the time the deed was given by the trustees to Frezton. It is difficult to perceive what effect could have been produced by the action of the city officers, under the authority of the ordinance passed in 1874. It was an attempt to close a street which had never, in fact, existed, but was merely in contemplation, and adopting the language of the Court of Appeals, in Stewart vs Mayor and City Council, 7 Md. 510 to this case, it may be said there could be no necessity for the corporation to close the street, for the plain and obvious reason that it never was a public street in legal contemplation. The fact that the defendant did not object to the action of the municipal authorities, evinced a willingness on its part to forego the rights which it had acquired under its deed, to use the ground in question for the purposes of a highway; and its acceptance of such title as the city could convey by the ordinance of 1874, and the improvement of the ground by the erection of buildings thereon, as mentioned in argument, shows that no necessity existed for a highway at that point. By act brought to the attention of the Court, has the owner of the bed of the street in question been divested of his title. The prayer of the plaintiff substantially sets forth the law which governs this case, and will be granted, and a verdict will be entered in his favor for the land described in the

declaration, and six hundred and ninety-one dollars damages.

September 6, 1886. William A. Stewart.

To the granting of which prayer the defendant excepts, and prays the Court to sign and seal this its first bill of exceptions; which is accordingly done this sixth day of September, 1886.

Wm. A. Stewart, (Seal.)
Test:- Wm. F. McKewen,
Clerk.

State of Maryland,
City of Baltimore, Set:

I, Wm. F. McKewen, Clerk of the Baltimore City Court, do hereby certify, that the aforegoing is a full, true and entire transcript taken from the record and proceedings of the said Court in the therein entitled cause.

In testimony whereof, I hereunto set my (Seal's Place) hand and affix the seal of the Baltimore City Court aforesaid, on this twenty-ninth day of September, eighteen hundred and eighty-six.

Wm. F. McKewen,
Clerk.

And now come into the Court of Appeals here, as well the said The Baltimore and Ohio Rail Road Company by Messrs Hugh L. Bond Jr. & John K. Cowen its Attorneys as the said James A. Gould Trustee by Messrs. Charles Marshall and Thomas H. Hall and Wm. L. Marbury his Attorneys and thereupon, on motion of the said James A. Gould, Trustee by his Attorneys aforesaid, it is ruled by the Court here, that the said Baltimore and Ohio Railroad Company assign the errors in the Record