a copy of a small portion of said Plot cannot admit the same to entirely accurate although they suppose this sufficiently so to illustrate the statement of the Bill. These defendants admit that the said Commissioners for opening the Streets in the City of Baltimore have under the said Ordinance No 58 proceed to locate and open West Baltimore Street from Fulton Street to the City limits passing through Complainant's property and through the said alleged Square as stated in said bill but they deny in so doing the said Commissioners have acted illegally or unwarrantably and on the contrary aver that all proceedings in the premises have been in strict conformity with law and they file herewith marked B. a certified copy of the return of said Commissioners deposited in the office of the Register which they pray to be taken as part of this answer and by which it will appear that the said Commissioners long since discharged all the duties imposed on them by law in reference to the opening of said Street and made a return of all their proceedings as by law requires on the twenty second day of October in the year eighteen hundred and fifty three. And the defendants also state that within five days after the return of said proceedings were deposited in the office of the Register notice was given by him to all persons interested by an advertisement once aired for four weeks in three of the daily newspapers of the City of Baltimore that the assessment and map contained in said return have so placed in his office and that the parties interested therein were entitled to appeal therefrom by petition in writing to the Judge of Baltimore City Court all of which will more fully appear by a copy of said notice herewith filed marked C. and prayed to be taken as part of this answer and these defendants advised and so aver that if there was any illegality or irregularity in the official proceedings of any of them in reference to the opening of said West Baltimore Street it was the right of Complainant in conformity with the Ordinance in such case made and provided to have appealed to Baltimore City Court for redress and that not having availed himself of the remedy so provided for him he has no right to ask this Honorable Court to assume jurisdiction which these defendants allege does not rightfully possess over a subject matter specially intrusted by law to another tribunal and that least of all has he a right now to apply to this Court for relief by Injunction on the ground of any illegality in the said Ordinance No 58 or in the notice published as preliminary to its enactment after having lain by from the date of the passage of said Ordinance on the 3d day of June 1853 down to the time of filing his bill and having in the meantime permitted the said Mayor and City Council and the Commissioners for opening streets to incur considerable expense in the opening of said West Baltimore Street and to assess large sums of money on various persons owning property in the vicinity thereof as and for benefits resulting to them from the opening of said Street and to collect and receive the same without applying or notifying them of his intention to apply to this or any other Court to restrain them from so doing and these Defendants respectfully submit to this Honorable Court that it would be an act these circumstances so inequitable and a great wrong as well to them as to the citizens who have paid the benefits assessed to continue an Injunction applied for and obtained at a late and advanced stage

of the proceedings to open said Street. And these Defendants further answering say that the said Complainant as will appear by a certified copy of the return of the Commissioners for opening Streets hereinbefore referred to was assessed by said Commissioners in the sum of Three Thousand one hundred and fifty four dollars and thirty nine cents as and for benefits derived by him from the opening of said West Baltimore Street and that on the twenty third day of May in the year Eighteen hundred and fifty three he the said Complainant paid the sum so assessed upon him to Charles Howard Esquire the City Collector by a draft therefor in favor of the said Collector drawn by the Complainant upon the City Register to be paid out of the moneys due by the City to the Complainant for damages assessed to him for the opening of said Street through his said property all which will more fully appear by reference to a certified copy of said draft now on file in the Office of the City Register which is herewith filed marked D. and is prayed to be taken as part of this answer. And these defendants further state that the said Complainant has been accordingly debited in his account against the Mayor and City Council for damages assessed to him as above stated with the said benefits so due by him and that he has thus paid benefits and received damages for the opening of said Street to the amount of the above mentioned draft, and they have advised that said Payment of benefits and receipt of damages by him amount to a ratification on his part of all the previous proceedings of the defendants in and about opening of said West Baltimore Street and are and will be considered by this Court under all the circumstances of this case as a Waiver of all right if any such he had to object to any illegality or irregularity in said proceedings up to the time of said receipt and payment. And these defendants answering deny that irreparable injury or that any injury will be done to the Complainant by the opening of said Street as is alleged in his said bill. He states therein that he would be willing that said Street should be opened as directed by the Ordinance No 58. but for the circumstance that a portion of his property delineated as a public Square on Poppleton's Plot will remain so delineated with said Street passing through it and that therefore while it would be unavailable as a public Square it would in consequence of being so marked out and delineated on Poppleton's Plat be likewise unavailable for the erection of buildings and for other private uses. These defendants deny that this is so and they say that the said portion of Complainant's property will not be rendered less available for the purposes of a public Square by the opening of said Street through it if the Mayor and City Council should hereafter think proper to open said ground as a public Square; and they are advised and expressly aver that he has now and will have after the opening of said Street the same right to build upon improve or otherwise use for his private or individual purposes that part of his ground marked as a public Square on Poppleton's Plat and not included in the bed of the proposed street which he has to build upon or improve any other portion of his said property. And these defendants for further answer to said bill say that during the pendency of the proceedings for