not deceit as this respondent is informed believes and therefore avers in consequence of and in obedience to the notice upon respondents filed with the Petition in this case marked Petitioners Exhibit B.

These respondents admit the proceedings under the Warrant in the Inquisition case as set forth by the Petitioners in their petition.

These respondents state that in and by the said Act of Assembly of 1853 ch. 376 power was given to the Circuit Court of Baltimore County only at the instance and upon the motion of these Respondents to confirm the said Inquisition; but the said Court as appears by the record of said Inquisition filed with Petitioners petition confirmed the same at the instance of the defendants therein the said Graff and against the remonstrances of these respondents then Plaintiffs in said cause wherefore the confirmation of said Inquisition was without power in the Court and a mere nullity.

These respondents further aver that the said Graff has not been disturbed in his possession of said land by the said tenant Hurley which was the only possession he had at the time of the said Inquisition or before or since that time or that he now has; and that as before said Inquisition so now he claims rent of the said Hurley and that the relation of landlord and tenant still subsists between them; nor did the said Graff at the time of the demand made of these respondents for the said thirty thousand dollars as set forth in said Petition nor at any time since offer to deliver up to these Respondents possession of said land on payment to him of said thirty thousand dollars nor did he then nor has he now the power and right so to do, and these respondents in fact say that they have heard that it is not the intention of the said Graff forthwith to deliver up the possession of said property to these respondents even on payment to him of said sum, but on the contrary thereof to continue his possession thereof and to maintain the same upon the plea that upon abandoning as these Respondents have done the scheme of using said property to convey water within the limits of the City of Baltimore they have lost their power and capacity to acquire and hold the same. And these respondents further say that before the confirmation of the said Inquisition as aforesaid upon considerations of public interest and convenience they abandoned as it was their duty to do the expensive and inexpedient plan of conveying water within the limits of the City of Baltimore by the way of Stony Run where said property is situated and disclaimed all intention of taking using or condemning any land on said Run as will appear by their ordinance a copy whereof is filed among the proceedings of the Circuit Court of Baltimore County and exhibited by the said Petitioner in this cause.

These respondents further state that upon the facts set forth in said Petition the Petitioner has a remedy if he has any rights whatever better adapted to the circumstances of this case in a Court of Equity than the one he is now seeking by mandamus. And these respondents say that this Court upon the facts set forth in said Petition has no jurisdiction to issue a mandamus.

Whereupon these respondents set forth the facts and reasons

aforesaid why the Writ of Mandamus should not issue as prayed for in said Petition. And these respondents pray to be hence dismissed with their costs &c.

G. L. Dulany
Atty For Respondents

State of Maryland City of Baltimore to wit:

On this fifteenth day of May A.D. 1857. before the subscriber a Justice of the Peace of the State of Maryland for the City of Baltimore personally appeared George Neilson President of the Water Board and made oath in due form of law that the matters and things set forth in the aforegoing answer are true to the best of his knowledge information and belief.

Wm. H. Baggaley

Whereupon afterwards to wit on the twenty fifth day of May in the year aforesaid all and singular the premises being seen and by the Court here heard and fully understood and mature deliberation thereupon had the Court passed and filed in the matter of the application aforesaid the following order discharging Rule and dismissing the Petition aforesaid, to wit:

George W. Graff vs The Mayor and City Council of Baltimore } Superior Court of Baltimore. Petition For Mandamus. Ordered that the Rule laid in the above case be discharged and that the Petition be and the same is hereby dismissed with costs to the Defendants.

L. Collins Lee.

And thereupon the said George W. Graff by his attorneys aforesaid prayed an appeal from the said order of the Court here discharging the Rule and dismissing the Petition aforesaid to the Court of Appeals of the State of Maryland — and to him it is granted. It is therefore ordered by the Court here that a Transcript of the Record and proceedings in the matter of the Petition for Mandamus aforesaid with all things thereunto relating be transmitted to the said Court of Appeals — And the same is transmitted accordingly.

Test: Edwd Dorling Clk

In Testimony that the aforegoing is a full and true Transcript taken from the Record of proceedings of the Superior Court of Baltimore City, in the matter of the Petition For Mandamus above mentioned.

I hereunto set my hand and affix the seal of the Court aforesaid this Twenty Ninth day of May in the year of our Lord Eighteen Hundred and fifty seven.

Edwd Dorling Clerk of Superior Court of Baltimore City

And now came into the Court of Appeals here, as well the said George W. Graff by A. W. Machen and Richard J. Gittings Esquires his Attorneys as the said Mayor and City Council of Baltimore by G. L. Dulany Esq. their Attorney: and thereupon on motion of the said Mayor and City Council of Baltimore by the Attorney aforesaid.