Baltimore, May 11th, 1855.

To the Honorable

the Members of the First Branch City Council.

Gentlemen:— You desire to know whether ordinance No. 94, which is now under consideration, will, if passed, be legal and operative.

The object of the proposed law is to repeal an ordinance "to widen Eutaw street," which was ratified on the 9th of June, 1854.

What has been done in pursuance of this last mentioned ordinance, is not stated. I infer, however, that it has been partially acted on, and that in the work done under its provisions, expenses have been incurred but to what extent the work has been carried, and what is the nature thereof, I am entirely ignorant.

That the city possesses authority to close Eutaw street, so as to confine it within its original bounds, there can, I think, be no doubt. The powers given by the act of 1838, chap. 226, are, with respect to the whole subject of streets, very full and comprehensive. But the question still remains whether it can be legally accomplished in the manner proposed — by a simple repeal of the ordinance of 1854.

If Eutaw street is now widened, and the work finished, and the damages and benefits assessed and paid, then I do not think the contemplated ordinance would be operative and effectual; but, on the other hand, it is quite sufficient and valid, if the street has not already been widened, or the work is in operation and unfinished; if the benefits and damages have not been paid and received by the parties interested, although assessed; if titles to property, under the former ordinance, have not been consummated, — in short, if the private interests concerned may be placed in the same condition, should the work be abandoned, as they previously stood.

By the latter part of the first section of the act of 1838, it is required that the city authorities, before proceeding to execute any of the powers antecedently vested in them by the act, shall give at least sixty days notice of any application which may be made for the passage of an ordinance, in at least two daily newspapers of the city of Baltimore.

In the present instance, I suppose that the notice required by the above clause, was not given, nor do I think it necessary, on the supposition that Eutaw street has not been widened or extended, but that in these respects the work is still in progress and incomplete, so that no indefeasible rights have been acquired by individuals from anything which has been done under the ordinance, which would be disturbed by its repeal.

Very respectfully,

S. T. Dulaney, city Counsellor.

The following message was received and read:

In Second Branch, May 11th, 1855.

Gentlemen of the First Branch:

We respectfully concur in your proposition for the appointment of a committee of conference on the claim of Mr. Rogers, and name as said committee on the part of this Branch, Messrs. Whitige, Poulton and Beale.

By order,

Allen E. Forester, clerk.

A preamble and resolution were received from the Second Branch, and read, requesting Messrs. J. H. Alexander, B. H. Latrobe, James Murray, and Adam Denmead to gauge the flow of Jones' Falls in the neighborhood of the Relay House, on the Northern Central Railway.

On motion of Mr. Suter, the preamble and resolution were read a second time by special order.

Mr. Thompson moved to amend the resolution by striking out all after the word "Baltimore," in the second line, and inserting the following:

"That the joint standing committee on water be and they are hereby authorized and empowered to employ three competent persons to gauge the flow of Jones' Falls, at such points as they may deem advisable."

Mr. Krafft moved to amend the amendment by inserting the word "disinterested" between the words "three competent;" in the third line, which was adopted.

The amendment, as amended, was agreed to.