

No. 15782

Coghlan
VS.

Mayor + City
Council

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15283

24-124

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY,
IN EQUITY.

WILLIAM F. COGHLAN,
WILLIAM P. BOSLEY,
ROBERT C. CLARKE,
HARRISON RIDER and
JOHN W. HARRISON,
being and constituting
the Board of Health
for Baltimore County

VS

THE MAYOR and CITY COUNCIL
of Baltimore, a municipal
corporation, and
WILLIAM F. HUSE.

BILL OF COMPLAINT.

. Clerk:-

Please file this Bill of Com-
plaint with Exhibits A. and B and
sue as prayed.

Edward H. Burke
Solicitor for Complain-
ants.

Filed January 18, 1904

WILLIAM F. COGHLAN,
WILLIAM P. BOSLEY,
ROBERT C. CLARKE,
HARRISON RIDER and
JOHN W. HARRISON,
being and constituting
the Board of Health
for Baltimore County,
Plaintiffs,

vs

THE MAYOR and CITY COUNCIL
of Baltimore, a municipal
corporation, and
WILLIAM F. HUSE,
Defendants.

IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY,

IN EQUITY.

* * *

To the Honorable, the Judges of said Court:

Your Orators, complaining, say:

1st. That your orators, William F. Coghlan, William P. Bosley, Robert C. Clarke, Harrison Rider and John W. Harrison, are and constitute the Board of County Commissioners of Baltimore County, and ex officio, the Board of Health for Baltimore County, in which last named capacity they bring this suit.

2nd. That the defendants, The Mayor and City Council of Baltimore and William F. Huse, have entered into a contract whereby for a period of ninety days from January 15th, 1921, or thereabouts (the exact date being unknown to your orators) all garbage collected in the City of Baltimore will be loaded on scows and said scows hauled or towed to said Huse's wharves on Bear Creek in Baltimore County, where said garbage will be unloaded. That in said contract said Mayor and City Council of Baltimore have reserved the right to terminate the same on fifteen days notice to said William F. Huse.

The allegations as to the fact and substance of said contract, as hereinabove set forth, are based on statements which have appeared in the daily press of Baltimore City under date of January 15th, 16th and 17th, 1921, which statements as to the fact and substance of said contract aforesaid, were confirmed by the Acting Mayor

of Baltimore City and Assistant City Solicitor of Baltimore City in conversations with your orators' attorney on January 17th, 1921.

3rd. That the garbage of Baltimore City is the refuse from the kitchens of Baltimore City, and consists of animal and vegetable matters in various stages of decay and putrefaction. Baltimore is a city of over seven hundred thousand souls and its garbage to be collected and sent by scows to the wharves of said Huse under said contract will average at least one hundred and twenty-eight (128) tons per day, or a total during the ninety days duration of said contract of at least eleven thousand five hundred and twenty (11,520) tons.

4th. That the defendant, William F. Huse, has not any means or machinery whatsoever for the scientific or other reduction of said garbage or for its sanitary disposal. This fact was well known to the defendant, The Mayor and City Council of Baltimore, at the time of entering into said contract and it is proposed by the said Huse, with the assent of said Mayor and City Council, to spread said garbage, or to sell as much as he can for spreading, over the territory and land of Baltimore County, adjacent and near his said wharves for fertilizer purposes.

5th. That the wharves of said Huse on Bear Creek, where said garbage will be unloaded, are well within nine miles distance of the Lazaretto Lighthouse on the Patapsco river, and are located about two miles from the eastern city limits of Baltimore City and about two and one-half miles from the village of Dundalk and about the same distance from the village of Sparrows Point. Dundalk is an unincorporated village in Baltimore County of some three hundred homes, having a population of approximately fifteen hundred and is a modern town, with concrete streets and a public water and sewage system. Sparrows Point is an unincorporated village in Baltimore County having a population of approximately ten thousand with improved streets and a sewage system. More immediately round about the wharves of said Huse on Bear Creek are small and larger truck farms, shore houses and bungalows. The small village in Baltimore County known as Edgemere^{is} less than two miles

away. Running near said wharves are modern and improved highways, much frequented by the public. In the summer time especially and during the colder months also, many persons, men and women, with their children, visit the numerous shores and private pleasure resorts along Bear Creek and other creeks making off from it and the Patapsco River, in the vicinity of said Huse's wharves, and your orators allege that said wharves and the farm lands adjacent and near thereto, over which it is proposed to spread said garbage, are not isolated but are in a more or less thickly settled, thriving and prosperous community, close to several villages in Baltimore County and various shore properties and private pleasure resorts.

6th. Your orators charge and aver that the disposal of such a large quantity of garbage, namely, an average of one hundred and twenty-eight (128) tons per day, by spreading the same over the soil of that part of Baltimore County mentioned in the preceding paragraph hereof, will prove a source of disease and pestilence and a menace to the health not only of the people living in the neighborhood but of other people of Baltimore County, especially those whose business or pleasure calls them to Dundalk and Sparrows Point, or to the various shore and other properties nearby, and to those persons travelling the public highways of the County. It is inconceivable that such a large quantity of garbage can be plowed under or covered with earth by said Huse or by the limited number of farmers and their farm help in that neighborhood and vicinity, even though they abstained from all other farm work and devoted all their labors to hauling away from the wharves of the said Huse and to spreading and plowing under the garbage of Baltimore City as received by him under said contract. Said garbage even though spread over the land will continue to ferment and decay notwithstanding cold weather and the stench therefrom will increase as the days grow warmer, and said garbage spread over the land will become a breeding place for billions of flies and other noxious insects that are carriers of disease and will result in the spreading of disease, principally typhoid and

kindred sicknesses and the contamination of springs and water supplies. The menace to the health of the people of Baltimore County through the spreading of garbage in such quantities as an average of one hundred and twenty-eight (128) tons per day will be terrible even in the coldest of weather likely to endure in this climate and after the termination of said contract, in the spring and summer, the danger to health will be great and more appalling.

The project of dumping all the garbage of Baltimore City in its raw state on Baltimore County, to be spread over the land for fertilizer, or allowed to accumulate, ferment and rot, according to the whim of an irresponsible private party, is highly reprehensible, repulsive and even criminal in its negligent disregard of the health of the citizens of Baltimore County.

And your orators charge and aver that by reason of the large quantities of garbage to be unloaded on said Huse's wharves under said contract, the limited number of farmers to haul said garbage away for fertilizer purposes, and bad weather conditions which at this season of the year are bound to prevail rendering the removal of garbage from said wharves improbable at times and practically impossible at other times, vast quantities of garbage will accumulate on said wharves and there rot and putrify, and give off foul and obnoxious odors dangerous to health and become a source of fevers and pestilence.

7th. That until recently the Mayor and City Council of Baltimore disposed of the garbage of Baltimore City to a piggery located in Anne Arundel County on a farm owned by this defendant, which has a water front, wharves specially adapted for the unloading, storage and handling of garbage. The piggery has been abandoned. The contract with Huse was the outgrowth of a desire on the part of the Mayor and City Council of Baltimore to dispose of Baltimore City's garbage as cheaply as possible. The Acting Mayor of Baltimore has stated, according to the Baltimore Morning Sun of January 17th, 1921: "But, if we are held up on the Bear Creek plan, we have a last resort. We can still dump the garbage on our farm at Graveyard Point (the piggery) and, if necessary have a force of men bury it."

Your orators charge and aver that Baltimore City's property at Graveyard Point in Anne Arundel County is isolated as compared to property in the neighborhood of Bear Creek and that at Graveyard Point the garbage of Baltimore City could be disposed of without detriment to the health of the public and in a sanitary manner.

While said contract is said by the Acting Mayor of Baltimore City in the public press and in conversation with your orators' attorney, to be a temporary arrangement for the disposal of the garbage of Baltimore City and will be terminated before the expiration of the ninety day period if other and suitable means can be found for the economical disposition of said garbage, yet your orators have been advised, and as the Board of Health for Baltimore County have determined by their formal resolution that the disposition of said garbage by delivery at the wharves of said Huse for fertilizer purposes is highly detrimental to the health of the people of Baltimore County and should be enjoined.

But without the intervention of this Honorable Court the defendants will create in Baltimore County a nuisance, the evil effects whereof will become more apparent from day to day while said contract is in existence, and afterwards in the succeeding spring and summer. The attitude of the defendants is defiant of any authority of your orators to prevent the completion of said contract and their action is predicated on the alleged advice of the Health Commissioner of Baltimore City that the disposition of the garbage of Baltimore City for fertilizer purposes by spreading it over the land of Baltimore County in the vicinity of Bear Creek will not be injurious to health, and your orators say that said alleged advice is manifest error and contrary to common sense and the advice of the State Board of Health of Maryland. A copy of the resolution of your orators is filed herewith as part hereof marked "Plaintiffs' Exhibit A."

8th. Your orators charge and aver that said contract is illegal in that it contemplates a disposition and disposal of the garbage of Baltimore City, within nine miles of the Lazaretto Lighthouse on the Patapsco River, contrary to the provisions of Chapter 205 of the Acts of 1908, *and that said contract and the acts to be done thereunder are illegal because the same are without the approval of the State Board of Health of Maryland.*

9th. This bill of complaint is filed and exhibited to your Honors in the sanitary interests of the people of Baltimore County, for the health of said County and for the prevention of a threatened and prospective nuisance.

10th. Your orators file herewith a letter under date of January 17th, 1921, from Dr. J. S. Bowen, an officer of the State Board of Health of Maryland, to your orators. Said letter is marked "Plaintiffs' Exhibit B." And all the statements and opinions therein contained, especially in regard to the dangers to be apprehended from the disposition of the garbage of Baltimore City at Bear Creek, are prayed to be taken as part hereof as fully as if at length incorporated herein.

To the end therefore:

That the defendant, The Mayor and City Council of Baltimore may be peremptorily enjoined against sending the garbage of Baltimore City to property in Baltimore County bordering on Bear Creek, said garbage there to be accumulated and / or to be spread over land in Baltimore County for fertilizer purposes.

That the defendant, The Mayor and City Council of Baltimore may be peremptorily enjoined from further carrying out or doing anything in the furtherance of the contract between it and the defendant, William F. Huse, looking to the conveyance of the garbage of Baltimore City to land in Baltimore County bordering on Bear Creek, said garbage there to be accumulated and/or spread over land in Baltimore County for fertilizer purposes.

That the defendant, William F. Huse, be peremptorily enjoined against receiving at his wharves in Baltimore County on Bear Creek, or elsewhere in Baltimore County, the garbage of Baltimore City, and against accumulating said garbage and/or spreading it over land in Baltimore County for fertilizer purposes.

That your orators may have such other and further relief as the nature of their case may require.

May it please your Honors to grant unto your orators the State's writ of subpoena directed to the defendant, The Mayor and City Council

of Baltimore, a municipal corporation, Baltimore City, Maryland, and to the defendant, William F. Huse, residing at 2800 Montebello Avenue, Baltimore City, Maryland, commanding them and each of them to be and appear in this Court on some day certain to be named therein and answer the premises and abide by and perform such decree as may be passed therein.

And as in duty bound, etc.

William F. Coghlan

William P. Bosley

Harrison Rider

Robert C. Clarke

Edmund H. Burke
SOLICITOR.

John W. Harrison
Being and constituting the Board of Health for Baltimore County.

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY that on this 18th day of January, in the year, 1921, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared William F. Coghlan, William P. Bosley, Robert C. Clarke, Harrison Rider and John W. Harrison, being and constituting the Board of Health for Baltimore County, and the complainants above named, and they each made oath in due form of law that the matters and facts set forth in the foregoing bill of complaint are true as therein stated to the best of their knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.

W. Cornell Van Horn
NOTARY PUBLIC.



On the foregoing Bill and Exhibits it is this 18th day of January, 1921, ordered that a Writ of Injunction be issued, as is prayed in said Bill, upon the filing of a bond by the Plaintiffs in the penalty of _____ Dollars with security approved by the Clerk of this Court; but liberty is hereby reserved to the Defendants to move for the rescinding of this order, and for a dissolution of the Injunction to be issued as aforesaid, at any time after filing answers to said Bill, on giving the Plaintiffs five days previous notice of such motion, and the Clerk is hereby directed to annex a copy of this order to the Writ of Injunction.

On the foregoing Bill and Exhibits it is this 18th day of January, 1921, ordered that a Writ of Injunction be issued as is prayed in said Bill, unless cause to the contrary be shown on or before the 20th day of January, 1921, provided a copy of said Bill and of this order be served on the defendants on or before the 20th day of January, 1921.

Frank S. Dineen

In the Circuit Court
for Baltimore County
In Equity

Wm. J. Coghlan
et al

vs

W.C. of Baltimore
et al

Order of Court

Dated July 25, 1920

In the Circuit Court
for Baltimore County
In Equity

Wm. J. Coghlan
et al

vs

Wm. Co. of Baltimore
et al

Order of Court

Dated July 25, 1921

WILLIAM F. COGHIAN,
WILLIAM P. BOSLEY,
ROBERT C. CLARKE,
HARRISON RIDER and
JOHN W. HARRISON,
being and constituting
the Board of Health for
Baltimore County,

Plaintiffs,

vs.

THE MAYOR AND CITY COUNCIL
OF BALTIMORE, a municipal
corporation, and

WILLIAM F. HUSE,

Defendants.

IN THE
CIRCUIT COURT

FOR

BALTIMORE COUNTY,

IN EQUITY.

The defendants to the above case having filed their demurrers to the Bill of Complaint filed therein, and said demurrers having been set for hearing and having been heard, it is this *25th* day of February, 1921, by the Circuit Court for Baltimore County, in Equity, after arguments by counsel for the respective parties, ADJUDGED, ORDERED AND DECREED that said demurrers be and they are hereby overruled, with leave to the defendants to answer within *15th* days from this date.

And it is further ADJUDGED, ORDERED AND DECREED that a writ of injunction be issued as is prayed in said Bill of Complaint; *but* liberty is hereby reserved to the defendants to move for the rescinding of this part of this Order, and for a dissolution of the injunction to be issued as aforesaid, at any time after filing their answers to said bill, on giving the plaintiffs five days previous notice of such motion, and the clerk is hereby directed to annex a copy of this Order to the writ of injunction.

Thomas J. Dineen
JUDGE.

Written work made known to the Mayor and City Council of
Baltimore a Municipal Corporation by service on Roland R. Manhart,
City Solicitor, and copies left with him this 26th day of February,
1921, at 12⁴⁵ o'clock P.M.

Samuel C. Wells
Scripps

IN THE
CIRCUIT COURT FOR

Plaintiffs

IN EQUITY

THE MAYOR AND CITY COUN-
CIL OF BALTIMORE, a mu-
nicipal corporation, and
WILLIAM F. HUSE,

Defendants.

The defendants to the above case having filed their demur-
ers to the Bill of Complaint filed therein, and said demurrers
having been set for hearing and having been heard, it is this

FILED MAR - 9 1921

Maryland, Sct:

THE STATE OF MARYLAND

TO Samuel L. Hinkle

GREETING:

WEHREAS, William F. Logblan, William P. Bailey, Robert C. Clarke, Harrison Rider, John W. Harrison being and constituting the Board of Health for Baltimore County exhibited to us in our CIRCUIT COURT FOR BALTIMORE COUNTY, a Bill of Complaint for relief in Equity, and for AN INJUNCTION to restrain you the said

~~That the defendant,~~ the Mayor and City Council of Baltimore may be peremptorily enjoined against sending the garbage of Baltimore City to property in Baltimore County bordering on Bear Creek, said garbage there to be accumulated and or to be spread over land in Baltimore County for fertilizer purposes.

That the defendant, the Mayor and City Council of Baltimore may be peremptorily enjoined from further carrying out or doing anything in the furtherance of the contract between it and the defendant, William F. Huse, looking to the conveyance of the garbage of Baltimore City to land in Baltimore County bordering on Bear Creek, said garbage there to be accumulated and/or spread over land in Baltimore County for fertilizer purposes.

That the defendant, William F. Huse, be peremptorily enjoined against receiving at his wharves in Baltimore County on Bear Creek, or elsewhere in Baltimore County, the garbage of Baltimore City, and against accumulating said garbage and/or spreading it over land in Baltimore County for fertilizer purposes.

WITNES, the Honorable J. Scott Spill of the Circuit Court for Baltimore County, this 3 day of January 1911

William P. Cole Clerk.

until the matter can be heard and determined in Equity.

NOW, THEREFORE, these are to COMMAND and strictly to ENJOIN and PROHIBIT you, the

said *The Mayor and City Council of*
Baltimore a municipal corporation
and William P. Husse as
stated above

until the further order of our said Court in the premises.

WITNESS, the Honorable *J. Scott O'Fallon*
N. CHARLES BURKE, Chief Judge of the Circuit Court for Baltimore
County, the *3rd* day of *January* 191*2*

Issued the *26* day of *February* 191*2*

William P. Cole Clerk.

WILLIAM F. COGHLAN,
WILLAIM P. BOSLEY,
ROBERT C. CLARK,
HARRISON RIDER, and
JOHN W. HARRISON,
being and constituting
the board of health for
Baltimore County,

Plaintiffs

vs

THE MAYOR AND CITY COUN-
CIL OF BALTIMORE, a mu-
nicipal corporation, and
WILLIAM F. HUSE,

Defendants.

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IN THE

CIRCUIT COURT FOR

BALTIMORE COUNTY

IN EQUITY.

The defendants to the above case having filed their demurr-
ers to the Bill of Complaint filed therein, and said demurrers
having been set for hearing and having been heard, it id this
25th day of February, 1921, by the Circuit Court for Baltimore
County, in Equity, after arguments by counsel for the respect-
ive parties, ADJUDGED, ORDERED AND DECREED that said demurrers
be and they are hereby overruled, with leave to the defendants
to answer within 15 days from this date.

And it is further ADJUDGED, ORDERED AND DECREED that a writ
of injunction be issued as is prayed in said Bill of Compalint;
but liberty is hereby reserved to the defendants to move for the
rescinding of this part of this order; and for a dissolution of
the injunction to be issued as aforesaid, at any time after filing
their answers to said Bill, on giving the Plaintiffs five days pre-
vious notice of such motion, and the Clerk is hereby directed
to annex a copy of this Order to the writ of injunction.

TRUE COPY-TEST:
William P. Cole
.....
CLERK

Frank I. Duncan
JUDGE.

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124

15283 ✓

In the Circuit Court for Baltimore
County in Equity.

William F. Coghlin,
William P. Bosley,
Robert C. Clarke,
Harrison Rider and
John W. Harrison, being and
constituting the Board of Health
for Baltimore County,
Plaintiffs,

vs.

The Mayor and City Council
of Baltimore, a municipal
corporation, and
William F. Huse,
Defendants.

A P P E A L

Mr. Clerk:-

Please file.

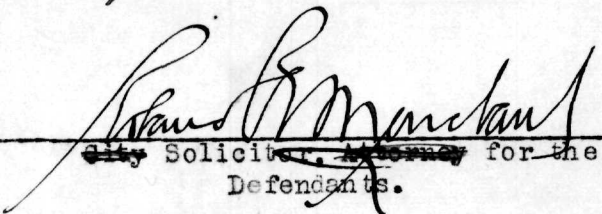
Roland R. Marchant
~~City~~ Solicitor, ~~Attorney~~ for Defen-
dants.

FILED FEB 28 1921


William F. Coghlin,	:	
William P. Bosley,	:	
Robert C. Clarke,	:	
Harrison Rider and	:	
John W. Harrison,	:	In the Circuit Court
being and constituting the	:	
Board of Health for Baltimore	:	
County,	:	For Baltimore County,
Plaintiffs,	:	
	:	In Equity.
vs.	:	
	:	
The Mayor and City Council	:	
of Baltimore, a municipal	:	
corporation, and	:	
William F. Huse,	:	
Defendants.	:	

Mr. Clerk:-

Please enter an appeal on behalf of the defendants,
the Mayor and City Council of Baltimore and William F. Huse,
from the order passed on the 25th day of February, 1921, to
the Court of Appeals of Maryland.


City Solicitor, Attorney for the
Defendants.

I hereby approve the above appeal.


Mayor.

STATE OF MARYLAND,
CITY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 28th day of February, in the year 1921, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City aforesaid, personally appeared WILLIAM F. BROENING, Mayor of Baltimore, and on behalf of the Mayor and City Council of Baltimore made oath in due form of law that this appeal is not made for the purpose of delay.


AS WITNESS my hand and Notarial Seal.


Edwin H. Brandt
Notary Public.

STATE OF MARYLAND,
CITY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 28th day of February, in the year 1921, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City aforesaid, personally appeared WILLIAM F. HUSE, and made oath in due form of law that this appeal is not made for the purpose of delay.

AS WITNESS my hand and Notarial Seal.


Edwin H. Brandt
Notary Public.

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IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY,
IN EQUITY.

WILLIAM F. COGHLAN, et al,
being and constituting the
Board of Health of Baltimore
County,
Plaintiffs,

vs.

MAYOR & CITY COUNCIL OF
BALTIMORE, and
WILLIAM F. HUSE,
Defendants.

- Decree -

FILED AUG 3 - 1921

WILLIAM F. COGHLAN, et al,
being and constituting the
Board of Health of Baltimore
County,

Plaintiffs,

vs.

MAYOR AND CITY COUNCIL OF
BALTIMORE, and

WILLIAM F. HUSE,

Defendants.

(IN THE
)
) CIRCUIT COURT
) FOR
) BALTIMORE COUNTY,
)
) IN EQUITY.
)
)

- - -

The above cause standing ready for hearing,
testimony having been taken and the case submitted, it is, this
31 day of August, 1921, by the Circuit Court for Baltimore
County, in Equity, (in conformity with its opinion heretofore
filed)

ORDERED, ADJUDGED AND DECREED that the injunction
heretofore granted in this case be, and the same is, hereby made
permanent and perpetual.

But it is further ordered, as to the defendant, the
Mayor and City Council of Baltimore, that this order and said in-
junction shall not become operative until September 1st, 1921.

But it is further ordered, as to the defendant,
William F. Huse, that the operation of this order and said injunc-
tion be suspended until September 1st, 1921, provided said Huse use
his best endeavors to remove, distribute and have plowed under all
piles of garbage now on the shores of Bear Creek, and until such piles
of garbage are so removed and plowed under, to keep the same covered

with land plaster; and provided further that the said Huse use his best endeavors to have all garbage which he may receive at Bear Creek, between the passage of this order and September 1st, 1921, quickly distributed and plowed under, and pending distribution and plowing under, if piled on the shores, covered with land plaster, ~~and provided further that no garbage be added to the existing piles of garbage now on the shores of Bear Creek.~~

And it is further ordered that the costs be paid by the defendants, the Court retaining jurisdiction over the defendants and subject matter of this suit.

Thos. J. Dunaway
Walter H. Jackson

Box 4

No. 15283

Docket 24

Folio 124

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

Loglan &c

VS.

MCC &c

The Honorable

The Circuit Court for Baltimore County :

The undersigned respectfully prays leave to
withdraw for ----- days the papers in the
above entitled case.

Leave granted as prayed this ----- day
of ----- 192

Judge,

Received this 12 day of July,
192 / , the papers in the above case.

[Signature]

Coghlan et al

vs

M. F. C. C. of Balto-
et al.

Garbage Case

Writ for the
County.

WILLIAM F. COGHILAN, ET AL
 vs.
 MAYOR AND CITY COUNCIL OF BALTIMORE,
 ET AL

: IN THE CIRCUIT COURT
 :
 : FOR BALTIMORE COUNTY
 :
 : IN EQUITY.

* * * *

NOTES ON BEHALF OF THE PLAINTIFFS

The object of the Bill is to procure an injunction to restrain the Defendants from sending the garbage of Baltimore City to Bear Creek in Baltimore County, there to be accumulated or spread over the land in Baltimore County for fertilizer purposes.

The Bill is filed by the Local Board of Health of Baltimore County and alleges that under a contract recently entered into by the Mayor and City Council of Baltimore and William F. Huse all the garbage of Baltimore City, amounting to one hundred and twenty-eight tons per day, will be sent to certain wharves on Bear Creek, which are controlled by Huse, who will spread the garbage, and sell as much as he can for spreading, over the land in Baltimore County adjacent and near these wharves for fertilizer purposes.

The Bill alleges that the wharves are located in a more or less thickly settled, thriving and prosperous community and close to several villages in Baltimore County and various shore properties and private pleasure resorts, and near to public highways which are much frequented by the public.

The Bill further alleges that the disposal of such a large quantity of garbage by spreading the same over the land for fertilizer purposes in this part of Baltimore County, near Dundalk, Sparrows Point and other villages of Baltimore County, will prove a source of disease and pestilence. The reasons are stated in the Bill.

It is further alleged that the Defendant, Huse, has not any means or machinery whatsoever for the scientific or other reduction of said garbage or for its sanitary disposal and that this fact was known to the Mayor and City Council of Baltimore at the time it entered into said contract and that

it is proposed by said Huse to spread the garbage over the land for fertilizer purposes, with the assent of the said Mayor and City Council.

The Bill further alleges that Baltimore City has a farm in Anne Arundel County, where until recently, it has disposed of its garbage to the ^a piggery. That this property in Anne Arundel County has a water front, wharves especially adapted for the unloading, storage and handling of garbage and is isolated as compared to the property in Baltimore County bordering on Bear Creek and that at the property of Baltimore City in Anne Arundel County it is possible to dispose of the City's garbage without detriment to the health of the public and in a sanitary manner, and that the contract with Huse is an outgrowth of the City's desire to dispose of its garbage economically.

It is further alleged that the contract between the Mayor and City Council of Baltimore and William F. Huse is illegal because it contemplates a disposition of the City's garbage within nine miles of the Lazaretto Light House and because said contract and the acts to be done under it are without the approval of the State Board of Health of Maryland.

There is filed with the Bill, as exhibits, a resolution of the Plaintiffs, in their official capacity ^{and} a letter from the State Board of Health of Maryland, which contains a statement of the evil effects to be anticipated through the performance of the contract alleged in the Bill, and advice to the Plaintiffs to bring this suit.

This case comes before this Court on demurrer under which is raised:

1. The question of the jurisdiction of this Court.
2. The right of the Plaintiffs to bring this suit.
- 3,4 & 5. The sufficiency of the Bill.

THE RIGHT OF THE PLAINTIFFS TO BRING AND MAINTAIN THIS SUIT IN THIS COURT

The Plaintiffs sue as the Board of Health for Baltimore County.

Section 247 of the Local Laws of Baltimore County (1916) confers upon the Board of County Commissioners of Baltimore County, sitting as a Local Board of Health, wide and exhaustive powers looking to the preservation of the health of the people of Baltimore County. To this Local Board is committed

the general care of the sanitary interests of the people of Baltimore County, and to this Board is specifically given the power "To apply to the Judges, or to any Judge of the Circuit Court for such County, in term time or vacation, for an injunction to restrain and prevent such nuisance, no matter by whom or by what authority committed" and there is also given to this Board "full power and authority to preserve the health of the County, to prevent and remove nuisances, and to prevent the introduction of contagious diseases within said County."

It will thus be seen that the Plaintiffs are charged by statute with the duty and are given by statute the right to prevent nuisances and to preserve the health of the County and to prevent the introduction of contagious diseases within the County through the restraining order of this Court.

Sections 248 to 270 of the Local Laws of Baltimore County (1916) relate to certain duties of the Board of Health for Baltimore County and its officers, the abatement of nuisances, etc. and the imposition of penalties for the maintenance of nuisances, but it is provided by Section 271 as follows: "Nothing in the preceding sections shall be construed as limiting or qualifying the right of said County Commissioners, constituting the local Board of Health, to maintain proceedings in equity to enjoin the commission, maintenance or continuance of nuisance of any kind affecting health."

Independent of the right of the Plaintiffs to bring and maintain this suit in this Court, under the local statute referred to above, this Court has jurisdiction of the subject matter of this suit because the situs of such subject matter is located in Baltimore County and the restraining order of this Court would operate in Baltimore County.

The last case on this subject is that of Baltimore City vs. Sackett 135 Md. page 56.

In this case there was a bill filed in Anne Arundel County against the Mayor and City Council of Baltimore and two other defendants for an injunction to restrain the operation of a piggery where the garbage of Baltimore City has been disposed of since January 1st, 1919. All the defendants to this suit were non-residents of Anne Arundel County. These defendants demurred to the Bill and the demurrer in the case at bar is virtually a copy of the demurrer filed in the Sackett case. The jurisdiction of the Circuit Court for Anne Arundel County was

sustained under the following authorities referred to by the Court of Appeals on page 61 of its Opinion.

Gunther vs. Dranbauer, 86 Md. 1

Crook vs. Pitcher, 61 Md. 510

M. & C. C. of Baltimore vs. Turnpike Company
104 Md. 351

Taylor vs. M. & C. C. of Baltimore 130 Md. 133.

29 Cyc 1237

Code Article 16, Sections 86 and 189, and

1 Chitty, Pleading 281, and other cases and authorities.

The Court quotes with approval, it will be noticed, a broad statement in 29 Cyc 1237 "that a suit to abate or restrain a nuisance can be brought in the county or district where the nuisance is situated, and should be tried there, unless a change of venue is granted by the Court."

THE SUFFICIENCY OF THE BILL

The allegations contained in the Bill are complete and precise.

Could anyone say that the accumulation of all the garbage of such a large city as Baltimore at Huse's wharves in Baltimore County or the spreading of this garbage over the land near these wharves would not be a source of disease and pestilence? Huse has no machinery whatsoever for the reduction of garbage. The City proposes to let Huse sell the garbage for fertilizer purposes, the garbage to be spread over the land. There is a very limited number of farmers who can use this garbage. The territory adjacent to Huse's wharves is not all given up to farming. It is close to several large villages of Baltimore County, one of which has a population of something over ten thousand. It can be estimated that if the average number of tons per day is one hundred and twenty-eight, as the Bill alleges, that a ton of garbage must leave Huse's wharves every five minutes during a working day of ten hours. It is inconceivable that this garbage can be taken care of by plowing it under by farmers.

Everyone knows that it will accumulate at Huse's wharves and there rot and decay. Everyone knows that what is plowed under will at every subsequent cultivation of the ground be disturbed and so far as odor is concerned, be resurrected and all during the spring and summer and every time the land is cultivated the

the garbage which is hauled down into that country this winter will give off foul and obnoxious odors, and will be and continue to be a menace to the health of a very large portion of ^{the} people of Baltimore County.

Of course every case depends upon its own facts and circumstances. This is especially true of suits to enjoin an anticipated or prospective nuisance and it is submitted that in the case at bar the Plaintiffs have alleged facts which are sufficient to show and which fairly tend to show that the thing complained of, when done, will in all reasonable probability, result in a nuisance which, were it actually an existing one, would be enjoined by this Court.

The principles of law applicable to cases of prospective or apprehended nuisances are recognized in the following Maryland cases:

Hamilton vs. Whitridge, 11 Md. 128, where the owner of property in a residential section was enjoined from using it for immoral purposes.

Adams vs. Michael, 38 Md. 123, to restrain the erection of a factory which would result in a nuisance from smoke, etc.

Baltimore City vs. Appold, 42 Md. 442, to restrain the City from flooding a small stream.

Kay vs. Kirk, 76 Md. 41, to enjoin the diverting of the waters of a stream.

M. & C. C. of Baltimore vs. Fairfield Improvement Company, 87 Md. 352, to enjoin the erection of a pest house.

King vs. Hamill, 97 Md. 103, to restrain the construction of a stable.

Polk vs. Clark, 122 Md. page 1, to restrain the construction of a sewerage system.

Hendrickson vs. Standard Oil Company, 126 Md. 577, to restrain the storage of explosive oils.

Hamilton Corporation vs. Julian, 130 Md. 597, to restrain the erection of bowling alleys.

From the above cases clearly appears that, while the general rule is that an injunction will be granted to restrain only an actually existing nuisance, the Court will order it to issue where it plainly appears that the acts which are complained of will, when completed, constitute or result in a grievous nuisance. It further appears that "The real question in all such cases, as stated by the authorities, is whether the nuisance complained of will or does produce such a condition of things as in the judgment of reasonable men

is naturally productive of actual physical discomfort to persons of ordinary sensibilities and of ordinary tastes and habits and as in view of the circumstances of the case is unreasonable and in derogation of the rights of the party."

Not only will the contract and acts complained of result in a menace to the health of the people of Baltimore County, but said acts and said contract are illegal. In this connection the Court's attention is called first to Chapter 205 of the Acts of 1908, which forbids the disposal of the garbage of Baltimore City within nine miles of the Lazaretto Light House, within which distance the wharves of Huse are located, and second to Article 43 of the Code, Volume 3, Sections 269 and 276, whereby Baltimore City is forbidden to undertake to dispose of its garbage without first obtaining the written permission of the State Board of Health of Maryland so to do. This permit is not issued until complete plans and specifications for such a disposal plant or system have been submitted to the State Board and approved by it. The Bill alleges and Exhibit B filed with the Bill affirmatively shows that the action of the City in entering into the contract with Huse is without authority from the State Board of Health.

Here we have an illegal contract, the performance of which will result in a menace to the health of the people of Baltimore County. But even if the contract was a legal one, and unrestricted power was vested in the Mayor and City Council of Baltimore to dispose of its garbage in Baltimore County, we contend that the disposal of this vast quantity of garbage in the manner contemplated should be enjoined:

1. Because such a contract is unreasonable, and
2. Because there is no necessity for it.

In *M. & C. C. of Baltimore vs. Fairfield Improvement Company*, 87 Md. page 352 at page 361 Judge McSherry says:

"The delegation of a power to do an act, whilst conferring full authority to perform the act itself, does not, therefore, without more essentially and without exception, carry the right to so do it as to inflict loss or injury upon an innocent individual. As thus understood the power of the municipality to erect and maintain hospitals and pest-houses may be exerted and applied precisely as the same power if not delegated could have been availed of by the State. Acts done under such delegated authority, which without that authority

would in themselves be public nuisances, furnish no ground for civil or criminal proceedings at the instance of the State; for the authority to do the acts makes them, when done, perfectly lawful as respects the public; and being lawful, there is no superior public right which they invade or violate. These are what have been sometimes described as 'legalized nuisances,' (Wood on Nuisances, ch. 23), since they are strictly necessary and probable results of legislative authorization. They ultimately rest for their sanction upon the paramount power of the Legislature, and the importance of the public benefit and convenience involved in their continuance as affecting the greatest good to the greatest number. *Northwestern Fertilizing Co. v. Village of Hyde Park*, 97 U. S. 659. But however free from interference by the public, acts of this character may be when authorized to be done by a municipality under competent and sufficient legislative grant, the right of an individual to complain of the special injury sustained by him as a consequence of their being done is, ordinarily, in no way impaired or affected. The mere naked grant of power to a municipality to do acts, which if done without the sanction of that power would be nuisances, does not in all instances carry with it a guaranty of immunity from claims for private injuries that result directly from the exercise of the power."

Now it is alleged in the Bill that the City has an isolated farm in Anne Arundel County where it has been disposing of its garbage and where it can now dispose of its garbage without detriment to the health of the public. The use therefore of Huse's wharves and of the adjacent property, whereon the garbage will be spread, cannot be said to be necessary, nor can the evil effects of the disposal of this garbage by spreading it over the land be said to be probable results of legislative authority.

Judge McSherry further says, page 368: "The contract is on its face unreasonable. Its tendency is to cause a dissemination of the disease and not to protect the community; and for this, if for no other reason, the injunction ought to be made perpetual."

The last quotation is peculiarly applicable to the facts of the case at bar. The City has taken no steps to protect the public. On the contrary it is delivering all of its garbage to an individual, who is to spread, and sell the garbage for spreading, over land near his wharves.

This individual has no machinery or means whatsoever to reduce the garbage and the City is fully aware of this fact.

The contract sought to be restrained will result in a dissemination of disease and is clearly unreasonable from the standpoint of public health. No one can say otherwise.

The case at bar is not controlled by the case of Baltimore City vs. Sackett in 135 Md. 56. In that case the City had entered into a contract with a piggery and it was the piggery that was sought to be restrained. The bill in the Sackett case alleged that the Mayor and City Council had made plans for the erection of a temporary plant for the reduction of the garbage from January 1st to March 1st, 1919, when the piggery was to begin its operations. In the case at bar no plans have been made by the City for the disposal of its garbage, except by spreading it over the land.

In the Sackett case the place where the garbage was to be reduced or fed to the pigs was not within nine miles of the Lazaretto Light House. In the case at bar Huse's wharves and where the garbage is to be spread are within nine miles of this light house.

In the Sackett case it is not alleged that the City had not the approval of the State Board of Health in awarding this contract to the piggery and in making temporary plans for the reduction of the garbage until the piggery was established. In the case at bar the allegation is that the City is acting, in the contemplated disposal of its garbage, not only without the approval of the State Board of Health, but against its wishes.

In the Sackett case the disposal of the City's garbage is made on the City's farm located in a very sparsely settled community. In the case at bar the disposal of the garbage is by spreading it over the land in a more or less thickly settled community, close to several large villages, near the public highways, much frequented by the public, and near to various bungalows, cottages and shore properties.

The Sackett case approves the principles of law to which we have referred, especially the case of Baltimore vs. Fairfield Improvement Company 87 Md. 352.

For the reasons above stated, we respectfully submit that the

demurrers of the Defendants should be overruled and as the health of some fifteen thousand people will be placed in jeopardy, the Court is respectfully urged, when overruling said demurrers, to order the injunction to issue as is prayed in the Bill and to further order, in the event of an appeal by the Defendants from such order and the filing of an appeal bond, that such bond shall not stay the injunction to be issued as aforesaid.

Edward H. Smith
Atty for County Counsel

OFFICE OF
The Sheriff
of Baltimore City
COURT HOUSE BALTIMORE, MD.

BALTIMORE, MD.
JUL 28
5 - P.M.
1892



William O Cole Esq
Towson
Md

Circuit Court for Baltimore County
IN EQUITY

To the Sheriff of Baltimore County—City:

July TERM, 1921

SUMMONS

4 lv. Wm H. Welch
801 St Paul St

9 lv. John S. Fulton SP
16 W. Saratoga St

9 lv. John Collinson SP
16 W. Saratoga St

16 lv. J. S. Bowen SP
Mt. Washington

To testify for

Plaintiff

County Commissioners et al. H. M. C. C. G. Belts et al.

Returnable 25 day of

July 1921 at 10 o'clock A. M.

Issued 26 day of July 1921

Wm P Cole Clerk.

Circuit Court for Baltimore County
IN EQUITY

Summons
Except Non Est as to
vs. Wm. H. Welch
Dec 1880

Thomas F. McKeely
Sherriff

Seamoned anbo.
Seamond Malle
Seamoff

Circuit Court for Baltimore County

IN EQUITY

To the Sheriff of Baltimore County ~~City~~.

----- TERM, 192

SUMMONS

Copy mailed to him

Mr. ~~Wm~~ W. Ford

Charles St. Ave., North

of Woodbrook Sta.-----

T. W. Stingley

Agent

Sparrows Point-----

To testify for

Plaintiff -

County Commissioners etc vs. M & C of Balt
City

Returnable

July 28, 1921

day of

192

, at 10 o'clock A. M.

Issued

26

day of

July

1921

----- P. Cole

Clerk.

4

15283

24-124

IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY.

WILLIAM F. COGHLAN, et al,
being and constituting the
Board of Health of Baltimore
County,

Plaintiffs,

vs

MAYOR AND CITY COUNCIL OF BALTIMORE
AND WILLIAM F. HUSE,

Defendants.

ANSWER

Mr. Clerk:

Please file.

Roland B. Marchant

City Solicitor, Solicitor for Mayor
and City Council of Baltimore.

FILED JUL 23 1921

WILLIAM F. COGHLAN, et al,	:	
being and constituting the	:	
Board of Health of Baltimore	:	
County,	:	IN THE
	:	
Plaintiffs,	:	CITCUI COURT
	:	
vs. .	:	FOR
	:	
MAYOR AND CITY COUNCIL OF BALTIMORE,	:	BALTIMORE COUNTY
AND WILLIAM F. HUSE,	:	
	:	IN EQUITY.
Defendants.	:	

- The separate answer of the Mayor and City Council of Baltimore -

TO THE HONORABLE, THE JUDGE OF SAID COURT:-

The Mayor and City Council of Baltimore, one of the defendants to the bill of complaint filed in this Court, by the plaintiffs in the above entitled case, answering says:-

1.

That it admits the material allegations in paragraphs one, two and three of the bill.

11.

Answering paragrapg four of the bill, this defendant admits that co-defendant William F. Huse has no machinery for the scientific reduction of garbage, but denies that he has no means for the sanitary disposal of said garbage; this defeddant alleges

that the spreading of garbage over land and plowing it under for fertilizer purposes when efficiently performed is sanitary.

III.

Defendant has no special knowledge of the distances and numbers and things alleged in paragraph five of the bill, but supposes the allegations thereof are substantially correct.

IV.

That it denies the allegations of paragraph six of the bill; it denies that the disposal of said garbage by spreading it over the soil of that part of Baltimore County in question and plowing it under for fertilizer purposes will prove a source of disease or pestilence or a menace to the health of the people living in the neighborhood, or elsewhere, or to those whose business or pleasure calls them to Dundalk or Sparrows Point, or elsewhere, or to persons travelling the public highways of said County; it denies that said garbage cannot be plowed under or covered with earth by the said Huse or the farmers and their help; it admits that said garbage when spread over the land and plowed under for fertilizer purposes rapidly decays, disintegrates, mixes with and becomes a part of the soil, but denies that said garbage will give off any odor after being plowed under; defendant further denies that said garbage when spread over the land and plowed under will become a breeding place for flies and other noxious insects; or that the spreading of said garbage over the land and plowing it under will result in the spreading of disease or typhoid fever or kindred sicknesses; or will contaminate the springs or water supplies; or will become a menace to the health of the people

Baltimore County, ; defendant denies that said disposition of the garbage is reprehensible, repulsive or criminal or that it is in disregard of the health of the citizens of the County. Defendant shows that none of the evil prophecies contained in said bill have come to pass. Defendant does not deny that the garbage in the process of being unloaded at said wharves does give off some objectionable odors, but denies that said odors endanger the health of the people of said County and defendant says that as soon as said garbage is properly spread over the land and plowed under these objectionable odors disappear leaving no evil effect upon the health of the community.

V.

Answering paragraph seven of the bill, defendant admits that it desires to dispose of its garbage as cheaply as possible, but if the allegations of said paragraph are intended to imply that the piggery was abandoned by this defendant and the contract made with said Huse as a part of a scheme to dispose of its garbage as cheaply as possible, without regard to the health of others, then this defendant emphatically denies said allegations. Defendant alleges that the disposition of its garbage under the contract with said Huse has been more expensive to this defendant than was the disposal of its garbage when the piggery was operated, but that when the company that was operating the piggery and buying garbage from this defendant, abandoned its contract, this defendant was under immediate necessity of providing some temporary means for the sanitary disposition of said garbage, and that the contract with said Huse was the outgrowth of that emergency, which emergency, was caused by failure of the company that was operating the piggery to complete its contract. Defendant further shows that it has entered into a contract for the establishment of a garbage reduction plant to dispose of its

garbage, but that said plant cannot be put in operation until January 1st, 1922.

Further answering paragraph seven, defendant denies that its property at Graveyard Point, in Anne Arundel County, is isolated as compared with property in the neighborhood of Bear Creek, and also denies that its Anne Arundel County farm has wharves specially adapted for the unloading, storing and handling of garbage.

Further answering paragraph seven, this defendant says that if the Board of Health of Baltimore County has determined that the disposition of said garbage by delivering the same at the wharves of said Huse and having it spread over the ground and plowed under for fertilizer purposes, is detrimental to the health of Baltimore County, that then the said Board of Health has been mis-informed, and its determination is erroneous and has no probative force, and this defendant again denies that the prompt and efficient spreading of said garbage over the land and plowing it under for fertilizer purposes is detrimental to the health of the people of Baltimore County or that it will create disease or sickness.

VI.

Answering paragraph eight of the bill, defendant denies that said contract is illegal or contrary to the provisions of Chapter 205 of the Acts of 1908, or that the same requires the approval of the State Board of Health of Maryland; all allegations of the Bill of Complaint not hereinbefore admitted or denied are here and now denied as fully as if specifically mentioned and denied.

And now having fully answered the allegations of the bill, this defendant prays the court that the injunction heretofore granted in this suit be dissolved and that the bill be dismissed and it be allowed its costs.

AND, as in duty bound, &c.


Roland R. Marchant
Solicitor for Mayor and City Council of
Baltimore,

STATE OF MARYLAND.

CITY OF BALTIMORE, TO WIT:

I HEREBY CERTIFY, that on this 23rd day of July, 1921, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City aforesaid, personally appeared WILLIAM F. BROENING, Mayor of Baltimore, and agent in this behalf of the Mayor and City Council of Baltimore, and made oath in due form of law that the matters and facts in the foregoing answer set forth are true as therein stated, to the best of his knowledge and belief.

AS WITNESS my hand and Notarial Seal.


Walter Eric Beuchelt
Notary Public.

In the Circuit Court
for Baltimore County
In Equity -

William F Coghlan
et al

vs

Mayor and City Council
of Baltimore et al

Plaintiffs Exhibit A.

Filed January 18, 1921

January 18, 1921.

WHEREAS, it has come to the attention of the County Commissioners of Baltimore County, sitting as the Board of Health for Baltimore County, that the Mayor and City Council of Baltimore, and one William F. Huse have entered into a contract of ninety days duration, subject to termination on fifteen days notice by the Mayor and City Council of Baltimore to said William F. Huse, for the disposal of the garbage of Baltimore City by sending it to and unloading it upon the wharves of said Huse at Bear Creek in Baltimore County.

AND WHEREAS complaints have been made against the disposal of said garbage in the manner contemplated and the Board has been advised that the accumulation of the garbage of such a large city or the spreading of such garbage over the land for fertilizer purposes is highly detrimental to the health of the people of Baltimore County.

THEREFORE be it Resolved, That the execution of said contract be protested by the Board and enjoined by action instituted in the Circuit Court for Baltimore County.

William F. Coghlan

Harrison Rider

William P. Bosley,

Robert C. Clarke,

John W. Harrison,

Being and constituting the
Board of Health for
Baltimore County.

True Copy: Test

*John R. Hant
Chief Clerk.*

In the Circuit Court
for Baltimore County
In Equity

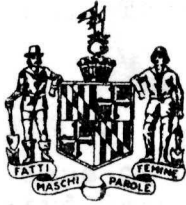
William J. Coghlan
et al

vs.

Mayor and City Council
of Baltimore et al

Plaintiffs Exhibit B.

Filed January 18. 1920



Deputy State Health Officer
JOSIAH S. BOWEN, M. D.

State of Maryland
Department of Health

FOURTH SANITARY DISTRICT
BALTIMORE COUNTY

STATE BOARD OF HEALTH

WILLIAM H. WELCH, M. D.
NATHAN R. GORTER, M. D.
JOHN D. BLAKE, M. D.
WILLIAM W. FORD, M. D.
ALBERT C. RITCHIE
TOLLEY A. BIAYS
JOHN S. FULTON, M. D.

MT. WASHINGTON, MD.

January 17, 1921.

To the County Commissioners,
of Baltimore County,
Mr. Wm. F. Coughlin, President,
Court House,
Towson, Maryland.

Dear Sirs :

From information contained in newspapers of Baltimore City under several dates beginning on January 15, 1921, and from information otherwise obtained, it appears that the City of Baltimore has entered or is about to enter into a contract with Wm. S. Huse, of Bear Creek, Baltimore County, whereby the said Wm. S. Huse will buy all the garbage of Baltimore City, and the City of Baltimore will deliver all the garbage of Baltimore City to Wm. S. Huse at Bear Creek, Baltimore County, the contract to run for ninety days, the amount of garbage thus disposed of to be , 11520 tons more or less.

It is believed that this contract, if made and complied with, will cause a nuisance, dangerous to public health, productive of physical discomfort, and otherwise injurious to a population of 13,000 more or less. An injunction is therefore advised in this case, for the following reasons :

1. To avoid the dangers expected, it would be necessary for Mr. Huse to receive at his place in Bear Creek, 11,520 tons of garbage, in ninety days; and to distribute the same among the farmers of that section within about ninety days. Allowing one ton to a wagon, and ten hours to a working day, the disposal of this garbage would require a load removed to its final destination, there spread and plowed under, for every five minutes. Manifestly this is impossible.

- a. The population, however well disposed, could not handle so much garbage, under the most favorable conditions of weather.
- b. Not all farmers will desire garbage.
- c. Weather conditions will frequently be prohibitive.
- d. Not all garbage removed will be plowed under.

#2.. To the County Commissioners of Baltimore County, Mr. Wm. F. C. Pres.

2. This garbage while collecting at Bear Creek, and being less or more distributed, will continuously undergo fermentation and decomposition, giving off noxious odors, whether resting or in transportation. At the end of ninety days, under the most favorable conditions, the neighborhood would be dotted over with local nuisances, a very great nuisance remaining at Bear Creek, and the fly-breeding season at hand.

3. The fly-breeding capacity of these accumulations in May and succeeding months cannot be estimated. A true statement would be unbelievable.

4. There is no sufficient reason for transporting this garbage out of Baltimore during the next three months.

If the quantity and the sanitary condition of the material is more than Baltimore should endure, no smaller population should be expected to endure it.

If its presence in Baltimore during that time is, in a sanitary sense, objectionable, its presence at Bear Creek would be in the same sense objectionable.

If its delivery at Bear Creek at this season is, in a sanitary sense, unobjectionable, its detention in Baltimore would be, in the same sense unobjectionable. But the garbage belongs to Baltimore City whether objectionable or unobjectionable, and it should not be possible for a single citizen, or several citizens of Baltimore County to buy, or for the City of Baltimore to sell and deliver 11,500 tons of garbage to one point in Baltimore County, without the consent of the population of Baltimore County.

I regard the impending condition as one of the most serious situations that has ever confronted Baltimore County.

Sincerely trusting that you will ask for an injunction and that the same will be successful, I am

Very truly yours,

Josiah S. Bowen

Josiah S. Bowen, M. D.,
Deputy State Health Officer,
Fourth District of Maryland.

4

15283 24-124

In the Circuit
Court of Balto
County.

Wm J. Coghlan,
et al.

vs.

Mayor & City Coun-
cil of Balto. et
al.

Petition.

Mr. Clerk:-

Please file.

Roland R. Marchant

Solicitor for defend-
ants.

FILED JUL 22 1921

FILED JUL 22 1921

William F. Coghlan, et al.,	:	In the Circuit Court
Plaintiffs,	:	
vs.	:	for
Mayor and City Council of	:	Baltimore County
Baltimore, et al.,	:	
Defendant.	:	in Equity.

TO THE HONORABLE, THE JUDGE OF SAID COURT:-

Your petitioners are defendants in the above entitled suit and respectfully show unto your Honor that the plaintiffs herein, on January 18, 1921, filed their bill praying an injunction to restrain defendant Huse from receiving at his wharves in Baltimore County on Bear Creek, or elsewhere in Baltimore County, the garbage of Baltimore City, and against accumulating said garbage or spreading it over the land for fertilizer purposes, and also praying an injunction restraining defendant Mayor and City Council of Baltimore, from sending any garbage to property in Baltimore County bordering on Bear Creek, there to be accumulated or spread over the land for fertilizer purposes; that on January 28th, 1921, the defendants demurred to said bill and on February 25th, 1921, your Honor overruled said demurrer and granted the injunction as prayed in the bill; that an appeal was taken to the Court of Appeals of Maryland and a bond given by the defendants, and that the effect of said appeal and bond was to stay the operation of said injunction pending said appeal; that the Court of Appeals has affirmed the action of your Honor, but has remanded the cause to this Court with instructions to allow the defendants to file an answer or answers within such reasonable time after the mandate is received as this Court may allow, and that said Court of Appeals held that in order to justify the continuance of an injunction against the defendants in this case, there must

be clear and positive evidence calling for such interposition of a court of equity, and the danger to the health of the people of the county must not be merely speculative but established with reasonable certainty; that as the summer is now here there need be no speculation as to what might be, but there can be proof of what the results have been, are now and are likely to be from the manner of the disposition of the garbage about which the plaintiffs complain in their said bill.

Your petitioners further show that pending the hearing of said appeal they have been sending garbage to the territory bordering on Bear Creek and that all of said garbage except about six scow loads has been spread over the adjoining land and plowed under for fertilizer purposes, and that no harm has been done thereby to the health of the people of the community or of anyone else; that there has been no outbreak of disease or epidemic of any kind in said community nor a single case of sickness that can be traceable to said garbage; that the persons over whose land the garbage is spread for fertilizer purposes and who own land in the immediate vicinity of said wharves where said garbage is unloaded are willing and anxious that the garbage be unloaded at said wharves and piled there, afterwards to be spread over their land for fertilizer purposes, that the farmers in this locality have been using garbage in this manner and for this purpose for a period of many years and that no injury to the health of the community has ever been caused thereby.

Your petitioners allege that they have filed answers to the plaintiffs' bill in which answers they have denied the equity of said bill and denied the allegations on which the injunction is based; that they are ready to try this case and substantiate the allegations of their answer; and that to continue the injunction in force pending a hearing would necessitate defendant, the Mayor and City Council of Baltimore expending large sums of money in order to make some other disposition of its garbage pending the hearing of this case on its merits; that said hearing need not take over a week and that the health of no one will be en-

dangered by the dissolution of said injunction pending a decision of your Honor on the merits. Petitioner Mayor and City Council of Baltimore shows that it has recently entered into a contract for the disposition of its garbage by reduction, but that it will take **several** months to put the reduction plant in operation, and that unless the continuance of the present manner of disposing of said garbage endangers the health of the Bear Creek community, petitioner desires to continue the present practice until the said reduction plant begins operation.

Petitioners respectfully invites the attention of the Court to the attached affidavits of Messrs. E. John Stratmann, Charles E. Lynch, J. Richard Fitzell, John F. Gorsuch and A. Morris Todd, from which it appears that they have resided in the Bear Creek neighborhood of Baltimore County for various periods from one to forty years. The affiant Stratmann lives within a quarter of a mile to the dumps where the garbage is deposited on Bear Creek, that he has noticed no bad effects from the dumping of said garbage or the use of the same in the neighborhood and that he has never known of any sickness that could be traced to the use of **garbage**.

Affiant Lynch deposes that he is thirty years old and from boyhood has handled and used garbage as fertilizer, that there has been no sickness in his neighborhood that can be traced to the using of garbage or the dumps on Bear Creek and that the odors arising therefrom are not very offensive and not more so than from some strong fertilizer; that **the flies** in his neighborhood are no more than in other neighborhoods; that none of his family have ever had typhoid fever or any other disease that could be traced to the use of said garbage or the dumping thereof.

Affiant Fitzell deposes that he has resided in Patapsco Neck for the last twenty years and now resides within a quarter of a mile from the place where the garbage spoken of in plaintiffs' bill of complaint has been deposited on Bear Creek; that he has had opportunity to observe the effects of the garbage in the community and he cannot recall any sick-

ness whatsoever whose origin may be traced to the using of garbage as fertilizer in the neighborhood and that he is positive that a stay in the injunction for a few weeks until the merits of the case can be heard would not jeopardize the community.

F

Affiant John ~~R.~~ Gorsuch deposes that he or his predecessors have resided in the Patapsco Neck nearly one hundred years and that they have been using garbage from Baltimore City as fertilizer for more than forty years; that he resides about a quarter of a mile from the dumping place on Patapsco Neck and is now using said garbage; that during all these years they have used said garbage and he cannot recall one case of typhoid fever or any other disease that has resulted from the use of garbage. And the affiant further deposes that the neighborhood in which he lives and in which the garbage is used as fertilizer is one of the most healthy sections of Baltimore County.

Affiant Todd swears that he is twenty-seven years old and has resided in Patapsco Neck all of his life; that his home is about six hundred yards from the place on Bear Creek where the garbage alluded to and described in the Bill of Complaint is dumped; that for the past five years he has hauled this garbage from the place where it is unloaded from the scows at Bear Creek to his farm and used the same as fertilizer and has used it practically at all seasons of the year. He has had ample opportunity to observe the effect of the garbage in the neighborhood and that he cannot recall any sickness whatever having its origin or tracable to the dumping of garbage in the community.

The petitioners pray that the said affidavits may be taken as a part of this petition and that the injunction heretofore granted in this case by your Honor be dissolved until this cause can be heard on its merits.

AND as in duty bound, etc.

Roland R. Marchant
Solicitor for Petitioners.

STATE OF MARYLAND.

CITY OF BALTIMORE, TO WIT:

I HEREBY CERTIFY, that on this 22nd day of July, 1921, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City aforesaid, personally appeared WILLIAM F. BROENING, Mayor of Baltimore, and agent in this behalf of the Mayor and City Council of Baltimore, and made oath in due form of law that the matters and facts in the foregoing petition set forth are true as therein stated, to the best of his knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.


Walter Eric Benschelt
Notary Public.

STATE OF MARYLAND,

CITY OF BALTIMORE, TO WIT:

I HEREBY CERTIFY, that on this _____ day of July, 1921, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, aforesaid, personally appeared WILLIAM F. HUSE, one of the defendants named herein, and he made oath in due form of law that the matters and facts set forth in the foregoing petition are true to the best of his knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.

Notary Public.

WILLIAM F. COGHLAN, et. al.) IN THE CIRCUIT COURT
) FOR BALTIMORE COUNTY.
VS.)
WILLIAM F. HUSE, et. al.) IN EQUITY.

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY that on this 12th day of July in the year nineteen hundred and twenty-one, before me the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared E. JOHN STRATMANN and made oath in due form of law to the following:

That the dumps where the garbage is deposited on Bear Creek is located on his property within a quarter of a mile of his residence. That he has resided there for more than a year and that he has not noticed any bad effects from the dumping of the garbage or the use of same in the neighborhood. That he has never heard any complaint, in the immediate neighborhood, of the garbage until recently and that he has never known of any sickness that could be traced to the use of the garbage.

AS WITNESS my hand and Notarial Seal


NOTARY PUBLIC.



Ed Davis
Room 217 Cl. House

WILLIAM F. COGHLAN, et. al.) IN THE CIRCUIT COURT
) FOR BALTIMORE COUNTY.
VS.)
WILLIAM F. HUSE, et. al.) IN EQUITY.

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY that on this 12th day of July in the year nineteen hundred and twenty-one, before me the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared CHARLES E. LYNCH and made oath in due form of law to the following:

That he has resided on Bear Creek, Patapasco Neck during all his life. That he is thirty years of age and that from a boy he has handled and used the garbage as a fertilizer and that his neighbors have so used it and that there has been no sickness in the neighborhood that can be traced to the using of the garbage on the dumps of the same at Bear Creek. That the odor arising from it is not very offensive and is not any more offensive than some strong fertilizer and that there is no odor from the garbage except when it is being disturbed. That he does not believe that there are any more flies in that neighborhood than other neighborhoods. That he has visited places more than a mile from his home, which is closer to the garbage dumps, and noticed more flies. That he does not believe that a few weeks dealy will jeopardize the lives of the citizens of that community. That none of his family nor himself have ever had typhoid-fever or any other desease that could be traced to the using of the garbage of the dumps of the same.

AS WITNESS my hand and Notarial Seal.

Ed Francis
NOTARY PUBLIC.



WILLIAM F. COGHLAN, et. al.) IN THE CIRCUIT COURT
) FOR BALTIMORE COUNTY.
WILLIAM F. HUSE, et. al.) IN EQUITY.

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY that on this 12th day of July in the year nineteen hundred and twenty-one, before me the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared A. MORRIS TODD and made oath in due form of law to the following:

That he, the said Todd, is 27 years of age and has resided in Patapasco Neck all his life. That his home is about six hundred yards from the place on Bear Creek where the garbage alluded to and described in the Bill of Complaint in this case has been dumped. That he has for about five years passed hauled this garbage from the place where it is unloaded on scows at Bear Creek to his farm and has used the same upon his land as a fertilizer and that he has used it at practically all seasons of the year. That the only time there is any odor is when it is being disturbed and that is hardly perceptible and at no time more than that of ordinary stable manure. That this affiant has had ample opportunity to notice the effect of the garbage in the neighborhood; that he cannot recall any sickness or disability whatever that has originated or can be traced to the dumping of the garbage in this community. That as he has said he and his family have resided within six hundred yards of the dumping, have used the garbage as a fertilizer and there has never been a case of typhoid-fever or any disease that could be directly or indirectly traced to the dumping of the garbage in the community.

AS WITNESS my hand and Notarial Seal.

Ora Francis
NOTARY PUBLIC.



4

15283

24-124

IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY.

WILLIAM F. COGHLAN, et al,
being and constituting the
Board of Health of Baltimore
County,

Plaintiffs,

VS

MAYOR AND CITY COUNCIL OF BALTIMORE
AND WILLIAM F. HUSE,

Defendants.

ANSWER.

Mr. Clerk:

Please file *in loco*

appearance for the defendant,
Wm F Huse

Whitcomb
Lawson

~~City Solicitor, Solicitor for Mayor
and City Council of Baltimore;~~

~~Wm F Huse~~

FILED JUL 23 1921

WILLIAM F. COGHIAN, et al,	:	
being and constituting the	:	
Board of Health of Baltimore	:	IN THE
County,	:	
	:	CIRCUIT COURT
Plaintiffs,	:	
	:	FOR
Vs.	:	
	:	BALTIMORE COUNTY
	:	IN EQUITY.
MAYOR & CITY COUNCIL OF BALTIMORE,	:	
and WILLIAM F. HUSE,	:	
	:	
Defendants.	:	

- The Separate answer of Wm. F. Huse -

TO THE HONORABLE, THE JUDGE OF SAID COURT:-

William F. Huse, one of the defendants to the Bill of Complaint filed in this Court, by the plaintiffs in the above entitled case, answering says:-

1.

That he admits the material allegations in paragraphs one, two and three of the bill.

11.

Answering paragraph four of the bill, this defendant admits he has no machinery for the scientific reduction of garbage, but denies that he has no means for the sanitary disposal of said garbage; the defendant alleges that the spreading of garbage over land and plowing it under for fertilizer purposes is sanitary.

111.

The defendant has no special knowledge of the distances and numbers and matters and things alleged in paragraph five of the Bill, but supposes the allegations thereof are substantially correct.

1V.

That he denies the allegations of paragraph six of the bill; he denies that the disposal of said garbage by spreading it over the soil and plowing it under for fertilizer purposes will prove a source of disease or pestilence, or a menace to the health of the people living in the neighborhood or elsewhere; or to those whose business or pleasure calls them to Dundalk or Sparrows Point or elsewhere; or to persons traveling the public highways of said County; he denies that said garbage cannot be plowed under or covered with earth by himself or the farmers and their help; he admits that said garbage when spread over the land and plowed under for fertilizer purposes rapidly decays, disintegrates, mixes in and becomes a part of the soil, but denies that said garbage will give off any odor after being plowed under the ground; he further denies that said garbage when spread over the land and plowed under will become a breeding place for flies or other noxious insects; or that the spreading of garbage over the land and plowing it under will result in the spreading of disease or typhoid fever or kindred sicknesses or that it will contaminate the Springs or water supplies of the community or that it will become a menace to the health of the people of Baltimore County.

V.

Answering paragraph eight of the bill defendant denies that said contract is illegal or contrary to the provisions of Chapter 205 of the Acts of 1908, or that the same requires the approval of the State Board of Health of Maryland; all allegations of the Bill of

Compalint not hereinbefore admitted or denied are here and now denied
~~is~~ fully as if specifically mentioned and denied.

And now having fully answered the allegations
of the bill, this defendant prays the court that the injunction hereto-
fore granted in this suit be dissolved and that the bill be dismissed
and he be allowed its costs.

AND, as in duty bound, to

H. Green Smith
Edw Mason

Solicitors for William F. Huse.

STATE OF MARYLAND.

County
~~CITY~~ OF BALTIMORE, TO WIT:

I HEREBY CERTIFY, that on this *23rd* day of July, 1921, before me, the ~~subscriber~~, a Notary Public of the State of Maryland, in and for Baltimore ~~City~~ *County* aforesaid, personally appeared WILLIAM F. HUSE, and made oath in due form of law that the matters and facts in the foregoing answer set forth are true as therein stated, to the best of his knowledge and belief.

AS WITNESS my hand and Notarial Seal.

Ora Francis.

Notary Public.

Boughlan Etal vs Mayor & City Council

Comes up on final hearing by Agreement.

Plaintiff

Thomas W. Stungley Swon.

James M. Cobb Swon.

Joseph S. Bowen Swon

William F. Huse Swon

Dr. John S. Fulton Swon

August G. Christof Swon

Dr. William W. Ford Swon

E. F. Kelly Swon

Dr. G. C. McCormick Swon

Dr. John Collinson Swon

Dr. Harry M. Slade Swon.

Defence

Thomas B. Todd Swon

A. Morris Todd Swon

Dr. Charles H. Jones Swon

J. Edwin Lynch Swon

City:-

31st day of August ~~1921~~ 1921 D.C.

Huse:-

Reduce and remove at Earliest moment
And that piles be Covered until removed

WILLIAM H. COGHLAN, et.al.	:	IN THE CIRCUIT COURT
being and constituting the	:	
Board of Health of Baltimore	:	FOR
County.	:	
Plaintiffs.	:	BALTIMORE COUNTY,
vs.	:	IN EQUITY.
MAYOR AND CITY COUNCIL OF	:	
BALTIMORE, and	:	
WILLIAM F. HUSE,	:	
Defendants.	:	

Opinion of the Court.

THE COURT (Judge Duncan):- In this case the injunction was issued on the bill presented by the Petitioner, and not upon any evidence taken; there was a demurrer to the bill and the demurrer was argued and the Court here decided that the injunction should be granted. That case went to the Court of Appeals and while sustaining the opinion of this Court, the Court said that in a matter of this importance the Defendants should have an opportunity to answer the bill and take testimony, and that is the reason we are here today.

We quite agree with the Court of Appeals, when it said, "this is one of the delicate cases courts are sometimes called upon to decide. On one hand we have involved what is alleged to be the health of the communities near where the garbage was to be placed, and on the other we have a large city with many tons of garbage to be disposed of, and the comfort, safety and health of its citizens require the garbage to be collected and disposed of in some proper way." I say that is the problem presented here in the hearing of this case.

Now gentlemen, there is no section of Maryland that has been transformed so much in recent years as this section,-- Patapsco Neck. Night soil and garbage have been hauled to that section, as has been testified to by Mr. Todd, for forty years. I remember quite that long back and know that I was employed in some cases growing out of the use of night soil in that section a good many years ago. I suppose

I made the first address that was ever made in Sparrows Point in 1889, the dedication of the first school house that was constructed there, a little two room affair. There were probably a half a dozen houses on the Point at that time. Now there is a pretty good sized city there, well conducted, and one of the largest manufacturing concerns in the whole country is located there, and north there was nothing at all in the way of a village or town, now they have Dundalk, St. Helena; large manufacturing centres, with large towns inhabited by hundred of families; besides others that are smaller. Now thirty years ago the only people who resided in Patapsco Neck were the farmers and truckers and I may say parenthetically, that we find no better people in Baltimore County or the whole state, than the people in that particular section, and I rather expect, that night soil and garbage has been the making of that country.

Now then gentlemen, the conditions today are entirely different from thirty years ago, absolutely different, and that fact our friends from Baltimore City seem to have overlooked. Of course this garbage could have been placed on one of the wharves of Baltimore City; it could have been placed upon some territory in the City, limits but that was not desirable for apparent reasons. In the first place, it would have produced a stench if it continued to remain there, that the people would not permit and would not, and therefore, it was necessary to remove it to some place where the people would not be affected by the smell. The City overlooked the fact that Patapsco Neck was not as it was twenty-five or thirty years ago and they overlooked the further fact that in piling this garbage on the banks of Bear Creek it was in smelling distance of a town of twelve or fifteen thousand inhabitants, Sparrows Point,

Dundalk and St. Helena; and then thirty years ago there was not a sign of a railroad going through that country; today, you have a large resort, Bay Shore, where thousands of people are going all the time, passing right in the sight of these various dumps at Bear Creek. You have splendid roads that you did not have in past years, that people for pleasure drive on, and for other purpose are using, so that conditions are altogether different. Now then, we have listened to this testimony with a great deal of interest, and we do not think that the petitioner has made out a case of any very imminent danger to the health of the people, but we do feel that it has made out a pretty strong case of a nuisance, in that this garbage lying in these large piles on the side of the creek and being stirred up to be placed upon the soil produces a stench at times, particularly owing to atmospheric conditions that is almost unbearable to people in that section; therefore we think the injunction should stand.

There are two parties to this proceeding, first, the Mayor and City Council of Baltimore, and second, Mr. Huse, the contractor. We have not forgotten what the Court of Appeals said in its opinion of the obligation and duty of the courts in dealing with the city of Baltimore in a case like this, where the health of a great city is involved and we therefore think we should make some little allowance for the city and make some slight modification of the injunction which now stands, for the reason that it does not seem to have at this time any place where it can at once dispose of this garbage, and yet we know it must be removed from the city limits; we do know, however, through the very best testimony, that in a matter of two weeks the garbage can be taken care of at Graveyard point in Anne Arundel County on the City's own farm. Mr. Christhilf testified, that in two weeks

they could arrange to handle the situation, at very little more expense per ton than paid now, and at considerably less than its cost at its disposal plant after the first of January. I think the figures are 87, 1.50 and \$2.70. Now we propose that the injunction, so far as the City is concerned, be modified so as to permit the garbage to be moved to Bear Creek until the 31st day of August, 1921; that gives more than thirty days and after that date it must be diverted to some other place. Now with Mr. Huse, we consider him separately, because what he does is altogether different from Baltimore City. He is the agent dealing with the city. These large piles that we believe are a menace to that community, may be, we think, a menace because of the offensive odors, and the breeding of flies, to the extent that has been testified to here, and we insist that they be removed at the earliest moment; and until they are removed we will require that they be covered with land plaster so as to keep down the smell and we hope remedy the situation to some extent, the Court of course retaining jurisdiction over the whole subject matter. To that extent we will modify the injunction but we want it distinctly understood with Mr. Huse and the City that we insist upon perfect good faith on the part of everybody, that we want this garbage removed as quickly as possible from the piles. I think the great trouble has arisen from the fact that the garbage was not hauled immediately from the scows and put on the ground; but it was permitted to remain in piles as has been described. This is our view of the situation and we hope that all parties will acquiesce in carrying it out. We will sign an order in conformity with these remarks.

Arthur J. Murphy

24
15283
IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY,
IN EQUITY.

WILLIAM F. COGHLAN,
ET AL,
constituting the Board
of Health for Baltimore
County, Plaintiffs,

vs.

MAYOR & CITY COUNCIL OF
BALTIMORE,
ET AL,
Defendants.

- Demurrer -

Mr. Clerk:-

Please file.

Ruland P Marchant
Solicitor for Mayor and City
Council of Baltimore.

6566
FILED JAN 28 1921

And this defendant, reserving at all times the right to object to the jurisdiction of this Court, for the reasons above stated, and without in any way waiving its right to make said objection, for additional grounds of demurrer says:-

THIRD:- That this Court is without jurisdiction, because there is no sufficient allegation of any wrong actually committed or threatened, remediable in a court of equity, and because there is no sufficient allegation of any fact or facts showing irreparable damages to the plaintiffs, or any of them.

FOURTH:- That the bill contains no sufficient statement of facts showing any wrong committed or threatened, which is remediable in a court of equity.

FIFTH:- That the bill contains no sufficient statement of facts showing any irreparable damage to the plaintiffs, or any of them, either suffered or impending.

Roland P. Marchant
Solicitor for Mayor and City
Council of Baltimore.

STATE OF MARYLAND, CITY OF BALTIMORE, TO WIT:-

I HEREBY CERTIFY, that on this *27th* day of January, 1921, before me, the Subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore aforesaid, personally appeared William F. Broening, Mayor of Baltimore City, and

made oath in due form of law, on behalf of the Mayor and City Council of Baltimore, that the foregoing demurrer is not intended for delay.

AS WITNESS my hand and Notarial Seal.



William B. Henkel
Notary Public.

28th - *Service of copy admitted this*
day of January 1921

Edward H. Burt
Solicitor for Petrs

And this defendant, reserving at all times the right to object to the jurisdiction of this Court for the reasons above stated, and without in any way waiving his right to make said objection, for additional grounds of demurrer says:-

THIRD:- That this Court is without jurisdiction, because there is no sufficient allegation of any wrong actually committed or threatened, remediable in a court of equity, and because there is no sufficient allegation of any fact or facts showing irreparable damages to the plaintiffs, or any of them.

FOURTH:- That the bill contains no sufficient statement of facts showing any wrong committed or threatened which is remediable in a court of equity.

FIFTH:- That the bill contains no sufficient statement of facts showing any irreparable damage to the plaintiffs, or any of them, either suffered or impending.


Roland R Marchant
Solicitor for William F. Huse

State of Maryland, City of Baltimore, To Wit:-

I Hereby Certify, that on this 27th day of January, 1921, before me, the Subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore aforesaid, personall appeared William F. Huse, one of the defendants.

herein, and made oath in due form of law that the foregoing demurrer is not intended for delay.

AS WITNESS my hand and Notarial Seal.


William B. Henkel
Notary Public.

*Service of copy admitted this
28th day of June 1926.
Edmund H. Buxton
Solicitor for D.P.*

12/20 15283

In the Circuit Court

for

Baltimore County, in Equity.

William F. Coghlan,
William P. Bosley,
Robert C. Clarke,
Harrison Rider and
John W. Harrison, being
and constituting the Board
of Health for Baltimore
County,

Plaintiffs,

vs.

The Mayor and City Council
of Baltimore, a municipal
corporation, and
William F. Huse,

Defendants.

P E T I T I O N.
AND
O R D E R

Mr. Clerk:-

Please file.

Roland R. Marchant

Solicitor for the Mayor and

City Council of Baltimore, and
William F. Huse.

FILED FEB -4 1921

WILLIAM F. COGHLAN, et al,

Plaintiffs,

vs.

THE MAYOR AND CITY COUNCIL
OF BALTIMORE, et al,

Defendants.

(IN THE
) CIRCUIT COURT FOR
(BALTIMORE COUNTY,
) IN EQUITY.
(
)
(

TO THE HONORABLE, THE JUDGE OF SAID COURT:-

Your Petitioners, the Mayor and City Council of Baltimore and William F. Huse, Defendants in the above entitled cause, respectfully petition the Court to pass an Order directing that their demurrers heretofore filed in this cause to the original bill be taken and considered as having been re-filed to the amended bill.

Roland R. Marchant
Solicitor for Defendants.

UPON the foregoing Petition it is ordered by the Circuit Court for Baltimore County, in Equity, this 4th day of February, 1921, that the demurrers heretofore filed by the defendants to the original bill be, and they are, hereby taken and considered as having been re-filed to the amended bill.

Thomas J. Dunaway

Summoned the Mayor and City Council of Baltimore a Municipal Corporation by service of William F. H. Doering its Mayor and copies left with him this 20th day of January 1921
Served William F. H. Doering his copies left with him this 20th day of January 1921.
Samuel C. Magie,
Sheriff
costs \$1.60

$\frac{24}{124}$

15283

Circuit Court for Baltimore County.

William F. Coghlan
et al

VS.

Mayor & City Council
of Baltimore et al

Subpoena to Answer Bill of Complaint

No.

Filed FILED JAN 21 1921 192

E. H. Burke

Solicitor.

EQUITY SUBPOENA.

The State of Maryland,

To

The Mayor and City Council
of Baltimore a municipal
corporation and William F. Huse

city
of Baltimore County, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you be in your person before the
Circuit Court for Baltimore County, at the Court House in Towson, on the first Monday of

February, next, to answer the complaint of William F. Loggins
William P. Bosley Robert C. Clarke
Harrison Robert, John W. Harrison
being and constituting the Board of
Health of Baltimore County against you in said Court exhibited.

HEREOF fail not, as you will answer to the contrary at your peril:

WITNESS, the Honorable T. Scott Offutt, Chief Judge of the Third Judicial Circuit of Maryland,
the 3 day of January, 1921

Issued the 17 day of January, in the year 1921.

William P. Cole
Clerk.

NOTICE TO THE PERSON SUMMONED:

“Personal attendance in Court on the day named in the above Writ is not required; but unless
within such number of days thereafter as the law limits, legal defense is made to the above mentioned
suit a judgment by default may be entered against you.”

“The Defendant is required to file his Answer or other Defense in the Clerk’s Office within
fifteen days after return day.”

24
124

5283

Circuit Court for Baltimore County.

William F Coghlan

VS.

Mayor & City Council
of Baltimore

copy left

Subpcena to Answer Bill of Complaint

Roland R. Marchant

Summoned the Mayor and
City Council of Baltimore by Service
on Roland R. Marchant, City Solicitor
this 26th day of February 1921, at 12⁴⁵
o'clock P.M. ~~was~~ ^{copy left} with him.

2/26/21

City Sol.

Witness my hand and seal as to Wm F.
Huse.

Samuel C. Mahle,
Sherriff

Filed _____ 192

Edward H. Burke

Solicitor.

FILED MAR - 9 1921

EQUITY SUBPOENA.

The State of Maryland,

To

*The Mayor and
City Council of Baltimore
a Municipal Corporation
and William F. Huss*

of Baltimore County, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you be in your person before the Circuit Court for Baltimore County, at the Court House in Towson, on the first Monday of

March, next, to answer the complaint of *William F. Coghlan
Freeman P. Bosley Robert C. Clarke, Harrison
Rider & John W. Harrison being and
constituting the Board of Health for
Baltimore County* against you in said Court exhibited.

HEREOF fail not, as you will answer to the contrary at your peril:

WITNESS, the Honorable T. Scott Offutt, Chief Judge of the Third Judicial Circuit of Maryland, the *3* day of *January*, 192*1*

Issued the *25* day of *February*, in the year 192*1*.

William P. Cole
Clerk.

NOTICE TO THE PERSON SUMMONED:

“Personal attendance in Court on the day named in the above Writ is not required; but unless within such number of days thereafter as the law limits, legal defense is made to the above mentioned suit a judgment by default may be entered against you.”

“The Defendant is required to file his Answer or other Defense in the Clerk’s Office within fifteen days after return day.”