File No. 1141.

OPINION.

LAW DEPARTMENT.

Baltimore, June 11, 1904.

Hon. W. Cabell Bruce,
City Solicitor.

Dear Sir:-

I beg to make the following report in reference to the protest of the Master Plumbers sent to Dr. Bosley, and referred by him to you.

1541 Section 820 of the City Charter provides that no private sewer or drain shall be constructed, altered or repaired without a permit from the City Engineer.

1542 Sections 185 to 193 of Article 23 of the Code of 1893, relate to the Inspector of Plumbing, who is appointed by the Commissioner of Health, and whose duty it is to inspect the plumbing of the various houses that are constructed in the City, with special reference to the drain pipes leading out of the houses. It is likewise made the duty of the Commissioner of Health, under these sections, to issue permits for such work, and, after the work is done, the Inspector of Plumbing gives his certificate of approval. It is desirable, of course, to reconcile these sections of the City Code with the section of the City Charter, and, in my opinion, the way to do so is about as follows:

1543 It is manifest that the word "drain" used in Section 820 of the Charter does not mean a mere connection between a man's house and a cesspool on his property, but refers to a drain that eventually leads to a public sewer, or a stream, no matter whether the drain is almost, if not entirely, upon private property. If we adopt this interpretation of the word, all difficulty disappears. The City Engineer would have no jurisdiction over the plumbing in the house, or over the construction of the pipes leading from the house to the cesspool. This entire matter would still remain under the supervision and control of the Commissioner of Health, acting through the Inspector of Plumbing. As soon, however, as we get beyond that point, we touch upon a matter confided by the Charter to the City Engineer, and wherever any one desires to construct, alter or repair a private drain, as above defined, he must apply to the City Engineer for a permit.

1544 It is not a question of the location of the private drain--whether it is entirely on private property or not--but whether it is a private drain, no matter where situated. If it is a drain, the City