

File No. 5705 Continued.

CORRESPONDENCE.

in. Can we legally, under these conditions, hold the owners of the properties, where tees were not put in, responsible for the clearing of the drain? An early answer will greatly oblige,

Very respectfully,

(Signed) James Bosley, M. D.,
Commissioner of Health.

File No. 5705.

OPINION.

LAW DEPARTMENT.

Baltimore, January 11, 1907.

Hon. W. Cabell Bruce,
City Solicitor.

Dear Sir:-

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As requested by your favor of January 3rd, I have considered Dr. Bosley's letter to you of January 2nd, and the attached communication from Mr. Flanigan to Dr. Bosley under date of December 31st 1906.

In my report of October 29, 1906, in connection with the Fardwell drain, I reached the conclusion that, notwithstanding the Act of 1906, Chapter 144, the owners of sewers were still liable to abate nuisances existing in such sewers.

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The argument of Mr. Flanigan is, that he should not, as the owner of a sewer, be compelled to abate nuisances, in such sewer, caused by parties who, without authority, connect with it, or caused by the improper character of the connection made with such sewer, by parties who had no authority to connect at all. It is, of course, a hardship upon sewer owners to be held responsible in such cases; at the same time, I do not think that the city can be called upon to inquire into the question of who caused the particular nuisance. The city must act promptly and, therefore, in abating nuisances, it looks primarily to the owner of the property on which the nuisance exists. The owner is the man who is compelled to abate the nuisance, and if the nuisance has been caused by the acts of some third party, then the owner has his action over against such third party.