

File No. 5705 Continued.

OPINION.

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So in the present case when the nuisance exists in a drain, it would be entirely impracticable for the city to determine which house connecting with the drain is responsible for the nuisance, or whether the nuisance is caused by faulty construction, by the throwing of improper substances into the drain, by a violation of the agreement of user on the part of connecting houses, or by other causes. The city finds that a nuisance exists, and then calls upon the owner of the drain to abate it; if the owner finds that the trouble has been due to someone else, then he has his action against such person, but so far as the city is concerned, it looks to the owner and holds him responsible.

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In addition to the inquiry which I have just endeavored to answer, Dr. Bosley states the specific case of a nuisance which seems to be due to the fact that the wells are not properly tased. I gather that the fact that the wells are not properly peed is due to the fault of the owners of the wells; if the nuisance in question is due to an overflow of the wells, then the owners of the wells should be called upon to abate it. If, on the other hand, the nuisance is caused by the condition of the sewer, then the owner of the sewer should be called upon to abate it.

I am unable to say which is the case, but Dr. Bosley can ascertain the fact as to this.

Very truly yours,

(Signed) Albert C. Ritchie,
Assistant City Solicitor.

File No. 5705.

LAW DEPARTMENT.

Baltimore, January 12, 1907.

James Bosley, M. D.,
Commissioner of Health.

Dear Sir:-

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Replying to your letter of the 2nd inst., asking me to advise you as to whom you should hold responsible for clearing a choked drain, I enclose herewith a report dated the 11th inst., from Mr. Ritchie, Assistant City Solicitor, to myself, with reference thereto. I concur in the conclusions reached by Mr. Ritchie.

Truly yours,
(Signed) W. Cabell Bruce,
City Solicitor.