

File No. 20,032.

Baltimore, February 1, 1916

Hon. S. S. Field,
City Solicitor,
Court House,
Baltimore, Md.

Dear Sir:

2078

In reply to your letter of January 27th, 1916, in which you refer letter of Mr. H. K. McGay, Harbor Engineer, under date of January 26th, 1916, to me for an opinion on the subject presented therein by him, I beg leave to submit the following.

The facts are as follows:

A sewer in Third avenue, Canton, empties into a dock at the foot of Third avenue, thereby rapidly filling up said dock by the deposit of a large amount of refuse matter, so that the owners of the property south of said dock, and who use the dock with their scows, are unable to get scows in and out of this dock. The said dock is within the City boundary, but all of the refuse matter comes from places in Baltimore County.

The question asked by the Harbor Engineer is - "whether the City should remove this matter under its annual dredging contract, or whether we should make any attempt to have the County remove this matter and keep this dock clear".

In answer to this question I beg to say that the Mayor and City Council of Baltimore are under no legal obligation to the property owners, whose property adjoins, abuts or fronts upon said dock, to remove the obstruction caused by the said sewer depositing a large amount of debris in said dock. This responsibility is entirely upon the creator or creators of the said public nuisance.

Under and by virtue of Sub-section 8 of Article 6 of the City Code (1915 revision), the Mayor and City Council of Baltimore are relieved of every duty and obligation "to (1) any person or corporation using said river or any of its tributaries in regard to the safety thereof, or (2) to render the said Mayor and City Council of Baltimore liable for any loss of life or injury or damage to person or property, by reason of any obstruction in, or unsafe condition of, any part of said river, or of said tributaries or branches, or either of them".