CORRESPONDENCE.

File No. 452 Continued.

should we consider to be the proper parties to notify to abate the nuisance?

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

OPINION.

File No. 452

LAW DEPARTMENT.

Baltimore, December 2, 1903.

Hon. W. Cabell Bruce,
City Solicitor.

Dear Sir:-

685 As requested by your favor of November 27th, I herewith send you a report upon the matters contained in Dr. Bosley's letter to you of November 25th.

I understand that the nuisance referred to consists of an open drain situated within the City limits on the Reisterstown Turnpike. This drain carries waste from dwellings within and without the City limits. The Turnpike Company declines to abate the nuisance; first, because the nuisance is the result of drainage from properties without the City limits as well as from properties within the City limits; and secondly, because the company claims that it has merely an easement in the road for turnpike purposes, and that the road is really owned by the abutting proprietors. Dr. Bosley wants to know whom he should notify to abate the nuisance on the assumption that the Turnpike Company owns merely an easement.

686 If the Turnpike Company owns merely an easement in the road for turnpike purposes, as Dr. Bosley asks us to assume, then I do not see how the company can be compelled to abate the nuisance referred to. The notice to abate should be served on the owners of the property through which the drain runs, whoever they may be. If the abutting property owners own the bed of the road, then they should be served with the notice. I do not think that the fact that the nuisance is partly caused by a drainage from outside the City limits would affect