File No. 4921 Continued.

OPINION.

in the letter of the Water Engineer, dated June 6, 1906, relating to the condemnation of pumps, wells, etc., in Woodberry and Hampden:

Under the City Charter, Section 6, sub-title "Pumps, Fountains and Springs," power is conferred upon the Mayor and City Council of Baltimore to erect and regulate pumps, fountains and springs in the streets, lanes and alleys of the City of Baltimore. Sections, 8, 9, 10, 11, 12, 13 and 14 of Article 23 of the Baltimore City Code of 1893 contain various provisions covering cases where wells and springs are found, upon examination of the water issuing therefrom, to be in a condition dangerous to the public health. Those sections confer full power upon the Commissioner of Health, acting through the water Engineer, to condemn and close such wells and springs.

The language, however, of Section 8 is not as broad as it could legally have been made. That section provides that whenever the attention of the Commissioner of Health shall be called to any well or wells, spring or springs, public or private, on any of the streets, lanes, alleys or squares of the City of Baltimore, the water of which is used for drinking purposes and which is suspected to be unfit for the same, he shall procure samples of water from the said well or wells, spring or springs, and submit the same to a competent chemist for analysis.

You will perceive, therefore, that upon a strict interpretation of the language, the wells and springs mentioned, whether public or private, must be on the streets, lanes, alleys or squares of the City of Baltimore, and I suppose that by this is meant public streets, lanes, alleys or squares of the City of Baltimore. The cases of wells and springs on private property are apparently, therefore, not covered, unless it be held that by the use of the word "private" in connection with "spublic", relating to wells and springs, all kinds of wells and aprings were intended to be included.

The ordinance in question is a police measure framed to protect the public health and should, therefore, I think, be given as
broad as interpretation as possible. The present situation in Woodberry
and Hampden calls for vigorous measures on the part of the City, and
it seems to me that any doubt as to the power of the City should be
solved in favor of the City.

and carry out the provisions of the sections that I have referred to in all cases where the wells and springs have been condemned, no matter

3626

3627

3628

3629