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ARTHUR F. H. WRIGHT, DEPUTY
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OFFICE OF
CITY ATTORNEY
CITY HALL
SAN DIEGO, CALIFORNIA

May 14, 1923.

To the Honorable, The Mayor and Common Council
of The City of San Diego, California.

Gentlemen:

Herewith I am returning Document No. 150858, being petition for the abatement of an alleged nuisance at 4251 Third Street, in this City, together with copy of written opinion of Deputy City Attorney Stanley T. Howe in the matter.

Respectfully submitted,

S. J. Higgins
City Attorney.

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May 11, 1923.

S. J. Higgins, Esq.,
City Attorney,
San Diego, California.

Dear Mr. Higgins:

I am returning herewith Document No. 150858, being a petition for the abatement of an alleged nuisance at 4251 Third Street, San Diego, California; and in reference to the same I submit the following:

Section 3479 of the Civil Code defines a nuisance to be "anything which is injurious to health or is indecent or offensive to the senses, or obstruction to the free use of Property, so as to interfere with the comfortable enjoyment of life or property * * *".

Section 3480 defines a public nuisance as one "which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal."

The maintenance of this number of chickens in this particular locality constitutes, no doubt, a nuisance, and a sufficient number of persons are thereby affected to make the same a public nuisance. It has been held that a nuisance becomes public when those who come in contact with the alleged nuisance are affected by the noxious odors, etc. emanating from the same.

A civil action to abate such a nuisance may be brought in the name of the People of the State of California by the City Attorney,

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whenever directed by ^{the} legislative authority of such city so to do. The Penal Code of this State also provides a penalty for maintaining a public nuisance, and for the requisite notice to be sent by the health officials; but a recourse to this procedure would not of itself accomplish an abatement.

It would therefore seem that the matter should be submitted to the Common Council of this City, and if in their opinion the matter should be abated, that an order be made by that body directing the City Attorney to take the proper steps to abate the nuisance.

Respectfully submitted,

Stanley J. Howe

Deputy City Attorney.

STH/M

DOCUMENT No. 151155

MAY 16 1923

Filed

Allen H. Wright

City Clerk

By

Deputy

COMMUNICATION

FROM

City Atty. re

Alleged Nuisance at

4251-3rd St.

*Presented to Common Council and
ordered Filed* MAY 21 1923