muscles supervened on an attack of pneumonia. The pneumococcus was isolated from some serous effusion withdrawn from the joint. The other case was recorded by Rendu at the meeting of the society on June 1st, 1900.* In this instance arthritis of the sterno-clavicular and knee-joints appeared after pneumonia. In purulent fluid withdrawn from the sterno-clavicular joint and in serous fluid from the knee-joint the pneumococcus was again identified.

LAW REPORTS.

HIGH COURT OF JUSTICE.

QUEEN'S BENCH DIVISION.

BEFORE DARLING AND BUCKNILL, JJ.

Thursday, May 30th, 1900.

MASON v. COWDARY.

This was an appeal by case stated from the decision of justices of Bedfordshire dismissing an information under Section 6 of the Sale of Food and Drugs Act, 1875, preferred by the appellant, an inspector under the Act, against Ellen Cowdary, the respondent, charging her with selling, to the prejudice of the appellant, a drug—to wit, camphorated oil—which was not of the nature, substance, and quality of the drug demanded. The question in the case arose under Section 14 of the Act, which provides as follows: "The person purchasing the article with the intention of submitting the same to analysis shall, after the purchase shall have been completed, . . . offer to divide the article into three parts to be then and there separated and each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent." It was proved before the justices that on November 16th, 1899, the appellant purchased from the respondent, who keeps a small general shop, six 2d. bottles of camphorated oil. The oil was exposed for sale in bottles which were not, apparently, prepared by the respondent, but each of them bore a label with the name of a chemist in the neighbouring town of Luton upon it. There was no evidence whether the bottles were identical in character or appearance or whether or not the labels on all the bottles bore the name of the same chemist. The six bottles were all purchased at the same time. The appellant, having notified that he intended to have the oil analyzed, divided the six bottles into three lots of two bottles each, sealing each separate lot of two bottles in a separate bag. He handed one of the sealed bags to the respondent, taking away the other two sealed bags, one of which he subsequently forwarded to the public analyst, who found that the two bottles contained only 17·5 per cent. of camphor, whereas camphorated oil should contain at least 20 per cent. of camphor. The appellant did not open any or either of the bottles of camphorated oil or mix or divide the contents, and the two bottles

* *La Presse Médicale*, June 9th, 1900.

handed to the respondent were in exactly the same state as when purchased. The justices were of opinion that the division of the bottles as described was not in compliance with Section 14, and they were not satisfied that the contents of the two bottles analyzed were identical with the other two lots of bottles in the hands of the appellant and respondent respectively.

Bousey (for the appellant), contended that the article purchased by the appellant was the six bottles of camphorated oil, and that the method of division which he had adopted was, therefore, in compliance with Section 14. It was the only practical method of division. The bottles contained so small a quantity of oil that the division of one bottle would not have produced a quantity of oil sufficient for the purposes of analysis. Nor would the mixture of several bottles of a drug of this kind into one for the purpose of division be practical, because some of the drugs which would have to be so treated were volatile, and liable to change their character on exposure to the air, and the operation of making a division in this manner would consequently require great care. In the case of *seidlitz-powders*, which were sold in parcels containing several packets, the method of division adopted had been to divide the parcels into three portions of so many packets each. That was the fairest method of division in that case, and it was also the fairest method in the case of the bottles in question. It was important to obtain a decision as to the proper course to adopt in these cases.

Muir (for the respondent) was not called upon.

DARLING, J., said that what the appellant did was to buy six articles and then to divide those six articles into three. In his opinion each of the bottles purchased was an article within the meaning of Section 14, for it did not matter for the purposes of the Act how small the article was. As the appellant did not divide any one of the bottles into three parts, he did not comply with the provisions of the statute.

BUCKNILL, J., concurred.

Appeal dismissed.

REGINA v. HORROCKS AND ANOTHER, JUSTICES (EX PARTE BOUSTEAD).

In this case cause was shown against a rule for a writ of *certiorari* to bring up and quash an order of two justices of Cumberland. On March 20th last a complaint was made to the justices under section 105 of the Public Health Act, 1875, by Mr. Alfred Hope, that on the premises of Mr. Samuel Boustead at Shield House there existed a nuisance caused by his act or default, and consisting of an accumulation of slaughter-house offal and filth, so as to be a nuisance on the fields at and adjoining Petteril Bank, the residence of Mr. Hope, whereupon the justices made the order now sought to be quashed, the effective portion of which was as follows: "We, in pursuance of the said Act, do order the said Samuel Boustead within one calendar month from the service of this order, or a true copy thereof according to the said Act, to take such steps as may be necessary to abate the said nuisance, so that the same shall no longer be a nuisance or injurious to health as aforesaid, and to pay the sum of 35s. for costs to Mr. David Mans, the solicitor acting for the complainant. And we, being satisfied, notwithstanding the said cause or causes of nuisance may be removed under this order, the same is or are likely to recur, do therefore prohibit the said Samuel Boustead from doing any such acts as may lead

to a recurrence of the said nuisance." The rule was obtained upon the ground that the order was bad in not specifying the works or things required to be done in order to abate the nuisance as required by Section 96 of the Public Health Act, 1875, as interpreted in *Reg. v. Wheatley* (16 Q.B.D., 34). Section 96 of the Public Health Act, 1875, provides that, upon default being made by a person upon whom a notice to abate a nuisance has been served and upon complaint made by the local authority to the justices, such justices "shall make an order on such person requiring him to comply with all or any of the requisitions of the notice, or otherwise to abate the nuisance within a time specified in the order, and to do any works necessary for that purpose; or an order prohibiting the recurrence of the nuisance, and directing the execution of any works necessary to prevent the recurrence; or an order both requiring abatement and prohibiting the recurrence of the nuisance." Section 105 provides that complaints may be made by any person aggrieved by a nuisance, and "thereupon the like proceedings shall be had with the like incidents and consequences as to making orders" and otherwise, as in the case of complaint made by the local authority.

Sanderson, L., in showing cause, contended that where the proceedings were taken by a private individual *Reg. v. Wheatley* did not apply, and that there was no necessity for the order to specify the works or things required to be done to abate the nuisance. In the present case no works within the meaning of the Act were required (see *Millard v. Westall*, 1898, 1 Q.B., 342). It would have been quite sufficient if the justices had simply ordered Mr. Boustead to abate the nuisance. Even if the first part of the order was bad, the second part, prohibiting the recurrence of the nuisance, was good (see *Mayor, etc., of Scarborough v. Rural Sanitary Authority of Scarborough*, 1 Exch. D., 344).

Macaskie, in support of the rule, relied on *Reg. v. Wheatley*, arguing that the person against whom such an order as this was made was entitled to know what were the steps the justices thought necessary to be taken by him to abate the nuisance. In the present case it might have been sufficient to cover the offal with earth, or it might have been necessary to remove it altogether.

Darling, J., said that he did not agree with Mr. Sanderson's contention that different principles applied when the complainant was a private individual to those which applied when the local authority were the complainants. In his opinion, the orders were to be made with the same particularity in each case. The order in this case did not follow the statute. It only said that Mr. Boustead must take steps to abate the nuisance, and did not specify the things or works which he was to do in order to abate it. That put him in a difficulty. He would not know what the justices intended him to do, and having done what he himself thought to be sufficient to abate the nuisance, he would nevertheless be again liable to be proceeded against. The part of the order, therefore, which dealt with the abatement of the nuisance was bad, but the part dealing with the prohibition of a recurrence of the nuisance was good, for in preventing the recurrence of the nuisance there was no need to do any works at all. The prohibition in this case simply amounted to saying, "Don't again accumulate offal or filth on this land."

BUCKNILL, J., concurred.

Rule made absolute as to abatement, discharged as to prohibition.