THE ADVANTAGE OR OTHERWISE OF APPOINTING INSPECTORS FOR SPECIAL DUTIES.

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THE subject of which I am to open the discussion this morning is one upon which there must be considerable diversity of opinion. This is shown by the fact that in many districts a number of inspectors are appointed to discharge only specified duties, whilst even in adjoining districts each inspector is held responsible for carrying out the entire duties in the area which is allotted to him.

Our portion of the work involved in the administration of the various Acts of Parliament, By-Laws and Regulations made thereunder, and Orders of the Local Government Board, may be summarised as follows:— Drainage under Acts 1875–1890–1907 and Metropolis Local Management Acts; Scavenging and Cleansing; Common Lodging Houses; Houses Let in Lodgings; Nuisances, general; Offensive Trades; Inspection of Slaughterhouses, meat, etc.; Infectious Diseases Notification and Prevention Acts; Housing of the Working Classes Acts; Rivers Pollutions Acts; Canal Boats Acts; Food and Drugs Acts; Factory and Workshop Acts; Shop Hours Acts; Work under Dairies, Cowsheds and Milkshops Orders, etc., etc.

Taking broadly the lines that the sanitary construction of buildings in so far as drainage, water supply, etc., is concerned, and that after the building has been erected its sanitary upkeep is almost entirely in the hands of the sanitary inspector or inspector of nuisances, it would appear but right in the interests of the community that there should not be two or more sets of officers employed in the examination of its sanitary condition or of the business carried on in the building (if not a private house), excepting in cases where very extraordinary circumstances appear to justify such a departure. It would certainly appear that, without giving the fullest consideration to a recommendation to appoint special officers,

sanitary authorities have adopted such recommendation, simply following a practice existing in an adjoining or other district where the circumstances are of a totally different character, and may not justify such a course of action.

An inspector when he is appointed to office should be capable of undertaking all the duties attached to his position. In small districts one inspector with no assistants is required to discharge all the duties and work appertaining to the office. Is this not, therefore, a strong argument in favour of making each inspector responsible for the entire duties: making the size of his district such that he can efficiently cope with the work?

The point that first arises is that sanitary inspectors and inspectors of nuisances are servants of the public. They are rate paid, and whether these rates are levied direct or paid through the rentals of occupiers of properties, it is essential that the greatest possible good shall be obtained by the community for the expenses they incur in the upkeep of a sanitary staff. For the compilation of reports of the medical officer of health, or chief sanitary inspector, or inspector of nuisances, as the case may be, it is of undoubted advantage to be able to look to and to compile from the reports of one inspector the work performed in specific directions; but is the compilation or preparation of statistics of greater advantage than the more thorough and larger amount of work that can be performed by one inspector over a small area.

I will give two specific instances out of many which might be quoted:

(1) A district in London, where we will say there is a medical officer of health, a chief sanitary inspector, a number of district inspectors (the Borough being divided into a number of areas for this purpose), and in addition to these say one or perhaps two food inspectors (whose duties also include those under the Food and Drugs Acts), two or more women inspectors, and also two or more workshop inspectors.

For the purposes of consideration I will exclude one of the women inspectors, whose duties we will consider as entirely devoted to the work attaching to the Notification of Births Act of 1907, and that of visiting respecting the feeding of infants, whether attached to a milk depot (so-called) or otherwise.

We have still at least three other officers who are charged with special duties, the food inspector, and the male and female workshops inspectors. The last visits all workshops, workplaces, and factories where female labour is engaged throughout the district, and in these is often employed labour of both sexes, except in such instances as dressmaking, millinery, etc. The male officer for workshops inspects all places where male employees are

engaged, and, as already stated, these are very frequently premises in which both sexes are employed. These two officers therefore inspect the same premises.

It may, and has been known to be, a fact that both officers have visited the same works during the same day, the only difference being that the sanitary conveniences set apart for females have received the attention of the female officer, while those of the male employees have been inspected by the male officer. Is there any reason why the latter officer could not have inspected both, except one of mock modesty? There is a false impression prevailing amongst members of sanitary authorities upon the question of male *v.* female inspectors of workshops. One frequently hears it said that the female inspector can more readily obtain information from the female employees than can the male officer, but, as a matter of fact, we know it is an impossibility, and would be strongly resented by an employer of labour when conducting the inspector over his premises, either personally or by his representative, if the inspector attempted to interrogate his workpeople.

In addition to these officers appointed for special duties, there is the food inspector and the inspector for the particular district in which the premises to be inspected are situated. Both these officers are entrusted with the duty of inspecting and reporting, and, with a large staff of inspectors, it is impossible to take three or more inspectors and allocate to them the particular premises which each shall visit on certain dates.

2. I had an instance, outside London, of what may be termed over-inspection brought to my notice only a few weeks ago, by a person than whom in my experience of nearly 20 years as an inspector I have come across no one more ready to carry out any suggestion made for the sanitary improvement of his workshops, etc., or for the comfort of his employees. He mentioned that in one week his premises had been visited by the following:—One of H.M. inspectors; an inspector making house-to-house inspection; a factory and workshop inspector; the inspector of nuisances (in consequence of a complaint made by a discharged hand); and an inspector from the Mansion House council for the protection of the poor.

Although this may be said to be an exceptional case, yet I am sure it is within the knowledge of many here that such instances occur more frequently than should be. With the exception of the visit of H.M. inspector, the objects sought could have been well obtained by the visit of the inspector of nuisances, if in a small district, or if in a large district split up into small sub-districts, by the district inspector.

In addition to the officers of the local authority visiting and inspecting there are others, those of the County Council, Home Office, and private associations, and I could cite more than one instance in which three officers of the local authority have visited the same set of premises on the same date.

The bulk of the law relating to the adulteration of food is contained in the following Acts:—

The Sale of Food and Drugs Act, 1875; the Sale of Food and Drugs Amendment Act, 1879; the Margarine Act, 1887; and the Sale of Food and Drugs Act, 1899; forming a series of Statutes collectively known as The Sale of Food and Drugs Acts 1875 to 1899, conferring powers on certain local authorities for the prevention and detection of adulteration of (*a*) articles used for food or drink by man, other than drugs or water, or which ordinarily enter into or are used in the composition or preparation of human food, including flavouring matters and condiments, and (*b*) drugs, including medicine for internal or external use.

For what reasons is it considered that the duties under these Acts should be carried out by an officer specially appointed, and not by the inspector of nuisances or the district inspector? So far as I am able to gather, this practice obtains much more largely in the Metropolis than in the provinces. Throughout England, with the exception of London, where each Metropolitan borough is the local authority, the local authorities under the Food and Drugs Acts are: (*a*) The Court of Quarter Sessions for each county, now the county council; and (*b*) The town council of every borough having a separate Court of Quarter Sessions, or having under any general or local Act of Parliament or otherwise a separate police establishment.

Section 13 of the Sale of Food and Drugs Act, 1875, states that “any medical officer of health, inspector of nuisances, or inspector of weights and measures, or any inspector of a market, or any police constable under the direction and at the cost of the local authority appointing such officer, inspector, constable, or charged with the execution of the Acts, may procure any sample of food or drugs, and if he suspects the same to be adulterated submit it for analysis.” As the officer authorised to take samples must be one of those mentioned in Section 13 of the Sale of Food and Drugs Act, it generally follows that the person on whom the duty falls, in all boroughs having a Court of Quarter Sessions, is the inspector of nuisances, and in counties, the inspector of weights and measures.

In London are there any reasons why a special officer should be

appointed for this duty only? Outside London, I see no reason. It is sometimes said that the district inspector becomes well known to the tradesmen and others from whom he has to take samples. This difficulty is met by the power to purchase by deputy, the usefulness of which has been immensely added to by the decision in *Tyler v. Dairy Supply Company*; this, together with the thorough knowledge which an efficient district inspector gets of the many things occurring in his district, more than compensates for any drawback through becoming known to all the tradesmen, etc., because even if one or more special officers are appointed to do this work, only a little longer time elapses before they are equally well known to the trading portion of the community.

As an illustration of the administration of the Food and Drugs Acts by a special officer as against the sanitary inspector, inspector of nuisances, or district inspector, as the case may be, let me give my own Borough, which was a large urban district, in fact, the largest in population in the county of Surrey. About three years ago it was made a borough by a charter of incorporation under the Municipal Corporations Act, 1882, but, having neither a quarter sessions court nor a separate police establishment, the Surrey County Council is the local authority charged with the execution of the Acts within the borough, subject to the following provision:—that certain specified officers can, under the direction and at the cost of the local authority appointing them, procure samples, and, if suspected of being adulterated, submit them to the public analyst for analysis, although all the costs of so doing would have to be borne by the Borough Council, and not by the County Council, the local authority under the Acts, and any penalties obtained are payable to the county fund except those in respect of margarine, where the magistrates may direct the allocation of a portion of the penalty to the authority prosecuting, but, in the absence of this direction, the penalty goes to the local authority (County Council).

Section 11 of the Margarine Act, 1887, states that any part of any penalty recovered under this Act may, if the court shall so direct (a) be paid to the person who proceeds for the same to reimburse him for the legal costs of obtaining the analysis and any other reasonable expenses to which the court shall consider him entitled.

The watch committee, deciding to supplement the work of the County Council, instructed me to obtain samples from time to time and have them analysed. I have no hesitation in saying that after my ten years' residence there as inspector of nuisances there are very few, if any, cowkeepers, dairymen, milk-sellers, or other tradesmen and dealers who do not know me well.

For the purpose of executing the Acts, the Administrative County of Surrey is divided into four districts; Wimbledon, with the following twenty-four parishes, comprising one district:—Addington, Ashstead, Banstead, Beddington, Great Bookham, Little Bookham, Carshalton, Cheam, Chessington, Coulsdon, Cuddington, Epsom, Ewell, Fetcham, Headley, Leatherhead, Merton, Mitcham, Morden, Sanderstead, Sutton, Wallington, Walton-on-the-Hill and Woodmansterne. Several of these have each a population of over 10,000.

If the system of specialising is all that its advocates claim, one might expect that I, as an official well-known to all tradesmen, etc., from whom samples have to be obtained, would fail to detect as many cases of adulteration and to secure as many convictions, as the special officer covering a large district, but the result is the opposite.

The argument I have adduced in favour of the provisions of the Sale of Food and Drugs Acts being enforced by the Inspector of Nuisances outside London, holds equally good for the Metropolitan area, as the practice invariably is for purchase to be made by deputies, and these changed as occasion arises or circumstances demand, and more especially in view of the decision of the Court of the King's Bench in the case of *Tyler v. Dairy Supply Company* (Knight's Local Government Reports, Vol. 6, No. 4, p. 442). This case is so important that, believing some may not have seen it, I set out somewhat fully the Court's judgment (see next page). From this it will be seen that it is not necessary for the inspector authorised by Section 3 of the Sale of Food and Drugs Amendment Act, 1879, to take samples personally, as he may procure such samples by agent or deputy, but he must see that the agent or deputy he employs is competent and trustworthy.

This being so, the argument for special officers doing the work under the Food and Drugs Acts falls to the ground. It is not a question of administration; it should not be one of compilation of statistics; it is a question of efficiency, and efficiency with business-like economy. Economy to the ratepayers, efficiency to all.

Therefore after much thought and some experience, both in the administration of the Act of 1875, of the London Acts, and of the by-laws and regulations in operation in the Metropolis, I am forced to the conclusion that, except in areas in which large manufacturing industries are carried on, and in which either male or female labour largely preponderates, there is no justification for the specialisation which to-day so largely obtains.

It is not economical or beneficial, internally or externally; officially, it

leads to overlapping of duties. It is irritating to the employer of labour without a corresponding reward or justice to the worker, and therefore the sanitary inspector, with the many and varied duties devolving upon him, is best if appointed and made responsible for all the duties allocated to his office in a small district or area.

In large towns and in some districts it is advantageous for a special officer to be appointed as meat inspector, unless the district inspectors possess special qualifications for the work. My firm opinion is that the efficient carrying out of the statutes with least friction, is to be ensured by making the districts smaller, and placing upon the inspector of the district the entire responsibility of carrying out all the duties which the public health statutes and the by-laws and regulations made thereunder place on a local authority, so far as they are carried out by the inspector of nuisances or the sanitary inspector.

The tendency to make special officers for special duties will, if persisted in, tend to lower the general standard. Examples of this have been seen in several professions where specialisation has become prevalent, the few have benefited at the cost of the many. The most serious point is that by any lowering of the standard the community would, in the long run, suffer.

Our aim is to see that every person desirous of becoming an inspector of nuisances or sanitary inspector, shall be so trained that he can efficiently carry out any of the duties of an inspector, or any extension to them that Parliament may make, and how can this be done better than by making every aspirant to office serve a term of years in a public health department, where he would, under the responsible officers, be given an efficient training in all branches of the work both indoor and out.

HIGH COURT OF JUSTICE.

KING'S BENCH DIVISION.—*TYLER v. DAIRY SUPPLY COMPANY.*
1908, Feb. 10.

Adulteration—Procedure—Milk in course of delivery—Procuring of samples—Officer acting by deputy—Sale of Food and Drugs Act Amendment Act, 1879 (42 & 43 Vict. c. 50), s. 3.

An officer authorised by section 3 of the Sale of Food and Drugs Act Amendment Act, 1879, to procure samples of milk in course of delivery may procure such samples by his agent.

Case stated by justices who had dismissed an information preferred by the appellant Tyler for that he at Isleworth did procure at the place of

delivery a certain sample of milk in course of delivery by the respondent company to the Guardians of the Poor of the Brentford Union, the purchasers or consignees, in pursuance of a contract for the sale to them, and that, suspecting the same to have been sold by the respondents contrary to the provisions of the Sale of Food and Drugs Acts, 1875 to 1899, the appellant did submit the same to be analysed by the public analyst, when the same was found to have been unlawfully sold by the respondents in an altered condition contrary to the provisions of the Acts without previously having made disclosure of such alteration.

Upon the hearing the following facts were admitted or proved:—

2.—(a) That the appellant is an inspector under the Sale of Food and Drugs Acts duly appointed by the County Council of Middlesex for the western district of the county.

(b) That Robert Anderson is an assistant inspector of weights and measures acting in and for the western district of the said county appointed by resolution of the County Council.

(c) That on June 22nd, 1907, the said Robert Anderson (the appellant being then engaged elsewhere on other duties) took a sample at the place of delivery of milk in the course of delivery by the respondents to the Guardians of the Poor of the Brentford Union, the purchasers or consignees, in pursuance of a contract for the sale to the said Guardians of such milk.

(d) That the appellant in pursuance of section 3 of the Sale of Food and Drugs Act Amendment Act, 1879, submitted the sample to be analysed by the Public Analyst for the County of Middlesex. On analysis the sample, which weighed about 6 ounces, was found to contain only 2·71 per cent. of fat instead of 3 per cent., equal to a deprivation of fat to the extent of about 9 per cent.

(e) That the said sample taken by Robert Anderson was so taken under the instructions and direction of the appellant (but who was not then present), and that after taking the sample Robert Anderson under the same instructions and direction made a report to the appellant.

(f) That the information was laid and these proceedings instituted and carried on by and in the name of the appellant.

3. It was contended on behalf of the respondents that as the sample was actually taken by Robert Anderson, a duly qualified though an assistant inspector, the information ought to have been laid and these proceedings instituted and carried out by and in the name of Robert Anderson.

3. It was contended on behalf of the appellant:—

(a) That the sample in question had been procured by the appellant, and that Robert Anderson in taking it had acted under the instructions and directions of the appellant, and in discharge of a duty required of him by the appellant.

(b) That the provisions of the Sale of Food and Drugs Acts, and particularly of section 3 of the Act of 1879, had been complied with.

5. We were of opinion that the matter was one of considerable doubt, and was not covered by any decision of the Court. On the whole we came to the conclusion that as the sample was actually taken by Robert Anderson, the information ought to have been laid and the proceedings carried on

by him and in his name; that as there was a doubt in the matter the respondents ought to have the benefit of it, and we therefore dismissed the summons.

6. The question for the opinion of the Court is whether upon the above statement of facts we have come to a correct determination.

After exhaustive arguments by counsel on both sides the Court, consisting of the Lord Chief Justice (Lord Alverstone), Justices Lawrence and Sutton, allowed the appeal and sent the case back to the Magistrates to be heard on its merits.

The Lord Chief Justice in delivering judgment said:—

“After the extremely instructive arguments we have heard on both sides, I do not myself feel that we have any doubt that we ought to come to the conclusion that this prosecution was rightly instituted by Mr. Tyler. The real question in dispute is whether or not, under section 3 of the Sale of Food and Drugs Act, 1879, the inspector may procure the sample by an agent. I agree that it is important that these samples should be taken by competent people, and I agree that it is very desirable, for the reasons pointed out in the very well-reasoned judgment of the Recorder of West Bromwich in *Holt v. Morris*, 57 J.P. 441, that the persons who take the samples should be responsible in every sense of the word; but we should have to hold, in order to give effect to Mr. Avory's argument, that the Inspector who subsequently submits the sample to analysis and therefore takes proceedings must be the person who takes the sample; in other words, we should have to construe ‘may procure at the place of delivery any sample’ to mean only may take himself.”

(*Reprinted from Knight's Local Government Reports*, Vol. 6, No. 4, p. 442).