

NOTE ON  
THE PROPOSED AMENDMENT OF  
SEC. 24 (SUB-SEC. 6), OF THE  
PUBLIC HEALTH (LONDON) ACT, 1891.

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THE wording of this section has always been a stumbling block. Difficulties have constantly occurred in proving that the smoke complained of was "black." As a matter of optics no smoke in daylight can be "black," and therefore it is clear that the section contemplates smoke of a density which more or less nearly approaches "black." Here then at once arises an uncertain factor, and in each case a successful prosecution depends upon what degree of density will in the opinion of the particular magistrate satisfy the legislative conception of "black." Municipal inspectors are equally human, and no means exists of defining the word "black" in such a way as would be binding upon either of them except by Act of Parliament, and it follows that the administration of the law must remain in this difficult, uncertain, and cumbrous condition until the section in question is amended.

A further reason which makes such an amendment highly desirable is that apart from smoke which more or less nearly approximates to "black," great quantities of noxious smoke are emitted which cannot by any stretch of words be called "black," and which yet is as noisome and offensive as the densest.

Under these circumstances the Corporation of the City of Westminster, a body which has always been in the forefront of efficient administration in this matter, proposed, in a circular to the Metropolitan Borough Councils, an amendment of the section which they might all agree to advocate. The proposal was to delete the word "black" from the section altogether. On the proposal being brought to the notice of the Coal Smoke Abatement Society, it was observed that, excellent as it was to meet part of the existing difficulty, it tended to raise new difficulties in a large class of

cases where at present they do not exist. To delete the word "black" simply, and merely forbid smoke that was a nuisance, would involve the proving in every case that the smoke complained of was of such a character as to amount to a nuisance, always a difficult proceeding. It would no longer be possible to secure a conviction merely by proving the smoke was approximately black, and these are the commonest and most noxious cases. The Society therefore suggested that the words "black smoke" should be retained, and the words "or smoke" inserted immediately after them. By this amendment the section would read "black smoke or smoke in such a quantity as to be a nuisance." In this way would be retained all the summary advantage of the old wording, added to the possibility of putting a stop to smoke which, though in no sense "black," was dense enough to be a nuisance and amount to pollution of the air.

This suggestion appears to have met generally with the approval of the authorities concerned, and it is to be hoped that at the next amendment of the Public Health Act the section in question will be modified on these lines.

It by no means follows, however, that the section so amended will be in the best conceivable form. All that can be claimed for it is that it will be well abreast of English public opinion on the subject, and will go as far towards a complete suppression of the nuisance as is at present likely to be practicable. Still there are possibilities beyond what appear to be immediately practicable. Since the amendment of the section was considered, as above related, the Foreign Office at the instance of the Society has collected and issued a series of reports on smoke legislation abroad, and considerable new light is thrown on the possibilities of the question.

On the whole it would appear that, bad as we are, we stand far ahead of the majority of foreign countries. In most of these no legislation exists at all. In France, for instance, no general law has been adopted, while all the old attempts to stop smoke pollution in Paris by police "Ordonnance" failed against passive resistance. The latest one appears to have fared no better. It was of a most modest character, for it went no further than to forbid the "prolonged emission of thick black smoke," (*interdit de produire une fumée noire épaisse et prolongée*), but even this appears to be little better than a dead letter. Germany, too, has shrunk from making any general law, and does not even venture so far as France in the Paris ordinance. The German Government goes no further than to order that "care should be taken in all works under State control that

the emission of *black, thick and continuous smoke* be avoided, in the first instance, by expert management of fires, proper supervision of firemen, and careful selection of fuel."

Thus we see that in these two countries the standard of atmospheric purity aimed at is considerably lower than with us under the Act as it stands.

In Dresden, however, a city which has long been noted as an example of amenity in civic management, we find that as far back as 1887 a by-law was enacted which goes beyond anything we have ventured even to propose in London, or elsewhere in the three kingdoms. It runs thus:—"In all manufacturing and industrial premises the construction of the furnaces must be of such a nature and their stoking so regulated that *no smoke containing visible particles of soot* is constantly emitted." "Where this happens only occasionally and exceptionally, the nuisance must not last longer than is absolutely unavoidable even with the most careful stoking and the employment of coal of at least medium quality."

Two years were given as a period of grace to existing premises. But the Dresden authorities were not content even with this drastic dealing with industrial premises. They extended their hand against private premises as well; and the by-law further provided that "In private dwelling houses the heating arrangement must be so contrived as to produce as little smoke as possible."

To forbid black smoke absolutely, and coloured (visible) smoke almost entirely, appears to go very far, but the step was taken not unsympathetically. At the same time an official inspector was appointed, whose duties were not only to enforce the law, but to assist citizens in complying with it. Besides reporting offending premises, he was to hear all complaints against "the practicability and onerous nature of the by-laws." He was to inquire into and suggest improvements in means for combating smoke, and he had attached to him an expert foreman stoker, who assists him in his duties and "is frequently called on to give practical illustration of the effect of skilful stoking in reducing smoke."

In these admirable and highly practical provisions we seem to get a new note in legislation which is worthy of the fullest consideration. The serious opposition to any extension of the law comes from manufacturers who plead in perfect good faith, and with convincing earnestness, that any further restrictions in smoke production are incompatible with London remaining a manufacturing city. On this point, however, there is no certainty. Many competent authorities share the belief of the German Government that by well-constructed furnaces, reasonably good fuel, and

above all, by skilful stoking, the evil would practically disappear without crippling the industries concerned. The methods they recommend are in themselves methods of ensuring economy, and were State assistance provided to explain and bring home to manufacturers how such economies could be effected, there seems no doubt that the bulk of the opposition would be removed. The hint, therefore, that we get from Dresden is that if we wish to get really efficient legislation carried through, it is highly desirable to accompany it with some provision for securing to manufacturers gratuitous instruction for stokers, and gratuitous advice on the general management of their fires. This at least appears to be the policy on which Dresden has been proceeding with so much success.

It remains to notice certain amendments suggested by American legislation. For though that country as a whole is far behind Dresden in the matter, some excellent provisions have been adopted by Philadelphia, Chicago and Massachusetts.

In Philadelphia there is an ordinance to regulate smoke from chimneys, which incorporates a colour scale for the measurement of the density and darkness of smoke; and within the limits of the city it is forbidden to emit smoke of a degree of darkness in excess of scale No. 2 for a period of more than five consecutive minutes from any locomotive or steamboat; while with regard to factories, etc., the scale of colour varies with the height of the chimney. The Chicago ordinance simply forbids the emission of "dense smoke," with a time-limit of three minutes.

Massachusetts appears to be the only State that has adopted a general Act. Section 1 of the Act of 1901 forbids as a nuisance the emission of "dark smoke or dense grey smoke for more than four minutes continuously, or for 12 per cent. of any continuous period of twelve hours."

It will be seen that the American legislature attaches importance to a time-period, that is, to having a minimum period during which the emission of objectionable smoke is permitted as unavoidable. No such period of grace has been enacted in this country, but in practice it is allowed. The length of such period differs in various places, and with various magistrates, just as does the interpretation of the word "black," and it would undoubtedly add certainty, and therefore efficient administration to the law, if we were to adopt, in amending our Act, some such time-limit as has commended itself to American experience.

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