

LAW AND LEGISLATION

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Milk and Politics—The mixture of milk with politics is not a felicitous one when the issue happens to be artificial. This fact was amply demonstrated during the recent gubernatorial elections in New York, where an attempt was made to use milk as a political asset. The hue and cry about “adulterated” and “poisoned” milk turned out to be a liability for the candidate who dragged this false accusation into the campaign. For a while it enlivened what threatened to be a dull and colorless contest, but in the end the charges that the milk supply of New York City was mostly below the standards of the Sanitary Code, being obviously unfounded, or based on flimsy evidence, reacted to the disadvantage of the candidate and his supporters who tried to make political capital out of a public health matter. This is as it should be. Regardless of one’s political creed and convictions, there can be no condonation for a spurious and reckless disregard of matters which belong to the province of sanitary science.

The milk situation in New York City was certainly open to question during the régime of Mayor Hylan and one of the first acts of Health Commissioner Harris, who was appointed about a year ago by Mayor Walker, was to attempt to clean it up. The result has been that several persons have been convicted of dishonesty in connection with this milk scandal and are now serving merited terms in the penitentiary. A special investigator, a well known lawyer who happens to be of a different political faith than the Mayor, was appointed by his honor and is now functioning, with the active coöperation of the Health Commissioner.

The Republican candidate for Governor, apparently spurred on by Mr. Hearst, whose political proclivities can be characterized only by the unsavory term of “Hearstism,” proceeded to have samples of milk collected and analyzed, but not interpreted, by a commercial laboratory of good standing. The candidate then charged that most of these tested samples indicated that the milk of New York City was generally below standard. The tests showed

that in some cases the milk did not contain the exact amount of butter fat required by the Sanitary Code. There was no evidence of bacterial contamination. This onslaught on the milk supply apparently frightened many persons, however, and a reduction in the consumption of milk, the one nearly perfect food, was noted. This in itself was harmful to the public health.

The Health Commissioner acted with considerable restraint, but, as was his duty, publicly denied the charges of bad milk. The crowning blow came when the ranting candidate’s own chemist came out with a statement upholding the quality of the milk supply. The farmers up state also got a little excited when they began to be able to sell less milk to the city. As a result of these factors as well as many others, the milk-in-politics candidate was defeated decisively, completely and by a plurality of about 250,000. The present Governor, who has always been a staunch supporter of public health, was elected for the fourth time.

The lesson from this little episode is this: *Leave public health to sanitarians and scientists, not to politicians.*

(Many requests for the reprint “Politics and the Public Health” have been received. Copies are still available and may be obtained from the associate editor.)

A Court Decision on Milk—Pasteurization laws have come before the courts on at least 6 occasions and in 5 instances have been sustained. In April of this year the Supreme Court of Missouri refused to uphold an ordinance of the City of St. Louis requiring all milk to be pasteurized, unless certified. State ex rel. Knese vs. Kinsey, 282 S. W. 437. The reason for this decision was that the state law, in the opinion of the court, authorized the sale of raw milk. The court further decided from the evidence that “raw milk is healthful, nutritious food, particularly for children, and this is not disputed,” also that “it is plain that raw milk as a *general thing* is more nutritious, easier assimilated, and better food, especially

for children, than pasteurized milk, though it is probable that some individuals may thrive better on pasteurized and boiled milk, than on raw milk.*

The ordinance was consequently held unreasonable and a writ of mandamus was allowed requiring the board of public service to issue permits to various dealers to sell milk, the permits having been refused by the board because the milk in question was not pasteurized.

This decision, while destructive to the cause of safe milk in St. Louis and in Missouri, should not be considered as a legal setback to the entirely reasonable and valid requirement that all milk not certified should be pasteurized. In the first place, perusal of the opinion shows that the ordinance in question was very defectively drafted, and second, that the case was very poorly presented from the standpoint of the city. The court is not to be blamed for drawing the erroneous conclusion that raw milk is better than pasteurized milk, when insufficient competent evidence was introduced to show otherwise. Instead of proving that milk, no matter how clean, is not necessarily safe unless pasteurized, the city tried to show that insanitary conditions prevailed at the particular dairies in question, alleging such trivialities as that chickens and geese were about on the farms. Quite properly, the court ruled this as irrelevant.

This case is a most striking example of the necessity for sanitarians to know something about public health law. The cause of public health in Missouri receives a check because the authorities did not support their position by worthwhile facts. The court, being an instrument of justice, would have given due weight to facts showing that raw milk could not safely be used in St. Louis, and, in fact, so stated in its opinion. In the absence of such facts, the court could rule only in accordance with the evidence presented.

Public Health in State Constitutions—Provisions pertaining to public health are to be found in the constitutions of only 9 states: California, Delaware, Florida, Louisiana, Oklahoma, South Carolina, Texas, Washington, and Wyoming. These provisions are given in full in *Public Health Reports* for September 24, 1926, and reprinted in the *United States Daily* for October 7 and 8. Public health need not be specifically mentioned in a state constitution, as the care of the public health belongs to the state as part of its inherent police power, but

it is useful for this instrument to set forth the requirement that a state health organization be created by the legislature. It is not wise, however, for a constitution to go into specific details as to how the board or department shall be made up and into details as to administrative procedure. That should be left to the law-making body, the legislature.

Bureau Changes at the Public Health Service—Two new assistant surgeons general have been appointed in the United States Public Health Service and one has been reappointed. The new incumbents are Dr. Thomas Parran, Jr., who succeeds Dr. Mark J. White in charge of the Division of Venereal Diseases, and Dr. Claude C. Pierce, who takes charge of the Division of Sanitary Reports and Statistics in place of Dr. B. J. Lloyd. Dr. Warren F. Draper has been reassigned as assistant surgeon general in charge of the Division of Domestic Quarantine. Dr. Pierce has had previous service as an assistant surgeon general, having formerly been at the head of the Venereal Disease Division. Sanitarians will be well pleased with these excellent appointments.

Survey of St. Elizabeths Hospital—A special committee to conduct a survey of St. Elizabeths, the Government Hospital for the Insane, was recently appointed by the Secretary of the Interior and is now ready to report. Those invited to serve included: Dr. Harry W. Mitchell and Dr. Owen Copp, Pennsylvania; Dr. George M. Kline, Massachusetts; Dr. Arthur H. Ruggles, Rhode Island, and Dr. Samuel E. Smith, Indiana. The committee endeavored to ascertain whether medical and nursing service is sufficient, competent, and scientific; if housing and food are proper and adequate; if unnecessary mechanical restraints are employed; and if the hospital is modern in its care, custody, and treatment of the mentally disordered.

Another Federal Health Agency—In discussing 40 different branches of the federal government which are directly or indirectly interested in some phase of public health, it was thought that the 423 pages of the book, *The National Government and Public Health*, covered the field in a fairly thorough manner. Now we discover that one agency was omitted. According to the *Journal of the American Medical Association* for October 16, 1926 (page 1304), the Federal Trade Commission recently

issued a formal complaint against one Hobart Bosworth, declaring that this public benefactor (?), who manufactures a spine motion machine for health's sake, and his advertising agent "had unlawfully conspired and agreed together to deceive and defraud the public." The *Journal*, with its well known love for things chiropractic, comments in this pithy statement, "'Tis a hard world. If the Federal Trades Commission is going to insist on the truth in advertising, how is a hard working quack going to make a living?" The fact that the name of the government agency in question is Federal Trade (not "Trades") Commission does not detract from the justifiability of the comment, or interest in the fact that there are more federal agencies than we think on the trail of public health.

Miscellaneous Items—An order of the Rhode Island State Board of Purification of Waters to the Town of East Providence requiring the town to "adopt, use and operate some practical and reasonably available system or means to prevent sewage pollution of the Seekonk River" has been upheld by the Supreme Court of that state. The case is reported in 133 Atlantic 812. The order was valid under a statute and the case furthermore

holds that neither towns nor individuals can acquire a prescriptive right to endanger public health by discharging sewage into public waters. This is a well established rule of law.

The Venereal Disease Manual recently issued by the United States Public Health Service has a brief chapter on the legal aspects of venereal disease control.

The question as to whose reports of communicable disease are to be accepted when two licensed doctors disagree is raised by the *Boston Medical and Surgical Journal* in an editorial, September 16. This has such an important legal aspect that we plan to discuss it in the next issue of the *JOURNAL*.

Another topic planned for future comment is the answer to the question often asked as to how to go about revising completely the health ordinances of a municipality. The associate editor is eager to receive suggestions for other subjects to be considered.

The *New York Medical Journal* has in its issue of November 1 a valuable article in its Legal Department on "The Art of Giving Testimony." This material was contributed by Lloyd Paul Stryker, counsel of the Medical Society of the State of New York. Dr. Frank Overton is editor of this progressive journal.

Do Not Compromise With Smallpox

Would a child permanently disfigured by this loathesome disease ever forgive the parents who neglected to have him vaccinated?

IN this enlightened age it is almost unbelievable that anyone would question the results of vaccination against smallpox. The usual experience in smallpox epidemics of a virulent character is that 85 to 90 per cent of the deaths are among the unvaccinated and that in no instance does death occur in an individual who has been successfully vaccinated within recent years.

Vaccination has probably saved more lives than any other preventive work in the world. Nobody realizes now what conditions were before general vaccination came in. At the very lowest estimate the population of Europe was reduced every year by not less than half a million as a result of smallpox epidemics.



Universal vaccination would stamp out smallpox. Is it not your duty to your children to have them vaccinated early? Would a child disfigured by smallpox ever forgive the parents who had carelessly neglected to have him vaccinated?

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