

FOREWORD

BY CHARLES V. CHAPIN, M.D., Sc.D., LL.D.

THE author has done well to begin by again quoting the oft quoted aphorism of the Earl of Derby that "sanitary instruction is even more important than sanitary legislation." Sanitarians work toward the ideal that all people will in time know what healthful living is, and that they will in time reach that moral plane when they will practice what they know. While hopeful for the millennium we must work. Law is still necessary. People still incline to acts which are not for their neighbors' good. In our complicated civilization, many restrictions must be placed on individual conduct in order that we may live happily and healthfully one with another. It is a common pastime to decry legislation. Many wittily declare that the most pressing duty of Congress and our state legislatures is to adjourn. Some of us differ decidedly from this view. Every one condemns unnecessary legislation and equally abhors ill considered and badly framed laws, but the relations of human beings are becoming more complex every day. It would appear that the rules governing these relations must become more complex. There is no doubt, too, that those who "on general principles" condemn "meddling legislation," when it comes to specific problems affecting themselves, are in favor of rat proofing plague infected cities, of stamping out virulent small-pox by drastic measures, of compelling one city to cease discharging its sewage into its neighbor's drinking water and of dealing summarily with him who peddles tuberculosis with his milk. Doubtless sanitary instruction will increase by leaps and bounds, but doubtless

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Dr. Chapin was Superintendent of Health of Providence, R. I., from 1884 to 1931, a period of nearly half a century. In addition to numerous other duties, he served as lecturer at the Harvard-Technology School for Health Officers when the author was a student (1912-1916). He was president of the American Public Health Association in 1927, and received the Sedgwick Memorial Medal in 1929. Throughout his active career Dr. Chapin was one of America's foremost sanitarians. His book, *Municipal Sanitation in the United States*, was quoted extensively in one of the decisions of the United States Supreme Court (*California Reduction Co. v. Sanitary Reduction Works* [1905], 199 U.S. 306, 26 S. Ct. 100, 50 L. Ed. 204).

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there will also be in the near future more, rather than fewer, sanitary laws.

Practically every one who enters the field of public health with enthusiasm, whether it be a health officer, a voluntary worker, or just a plain citizen, stimulated by some evil, or abuse, first turns to legislation as a means of hastening the millennium. Few health officers entering upon their work know much about law, or even about the structure of our government. The propagandists of great health movements are likely to know even less. They may fear that human nature may interfere somewhat with law enforcement, but they little realize the legal impediments in the way of securing the prompt adoption of their rules. It never occurs to them that the Federal Constitution may be in their way, or their state constitution, or some existing statute, or possibly a municipal ordinance. Still less do they realize the power of the courts. A judicial decision may possibly render void any law, or regulation. The author in a simple but concise manner thoroughly acquaints his reader with all these limitations to law making and rule making. Legislation is a serious business, and those interested in public health who expect to take a hand in it, and all who have to interpret and apply laws and regulations, need a volume on the desk which will guide them aright.

Of equal importance with an understanding of the principles of good sanitary legislation and its limitations is a knowledge of the technical construction of statutes and regulations. Dr. Tobey suggests that sanitary regulations should first be drawn by an expert in sanitary science, read and corrected by a master of English, and then be put into legal form and made to conform to constitutional and statutory requirements by a lawyer experienced in drafting legislation. It would be ideal if the three could have a joint meeting to complete the work. The necessity for the greatest care in this business cannot be too strongly insisted on. As Elihu Root said, quoted by Dr. Tobey, "There is a useless law suit in every useless word of a statute." Amendments are unfortunate and perhaps are best prevented by prior consultation with possibly adverse interests.

The last sentence of Chapter XX is pregnant with meaning. The admonition is that regulations should not be adopted unless it is intended that they be enforced. The sole purpose of law is to control individual action so that it will not injure another. Nevertheless, it is surprising that there are so many people who believe that education is a legitimate function of legislation. Health teachers, health officers, social workers and even a professor of sociology in a leading university, have argued that though it might be impossible to enforce a pro-

posed statute, it should be made a law for its educational effect. Nothing is more certain to develop disrespect for law than this, and disrespect for law is the most menacing danger of the times.

Chapter XXI is very useful and practical. Very few laymen have any knowledge of court procedure. When appointed health officer, I knew nothing about such matters, and if I could have read a brief discussion like this, it would have saved much misunderstanding and annoyance. The remarks about evidence and witnesses are particularly instructive and if taken to heart will save many disappointments.

A large portion of the book is taken up with the discussion of the legal problems connected with particular phases of health work, such as the control of communicable diseases, nuisances, social hygiene, etc. A vast amount of information is contained therein which it is very useful for the health worker to have ready at hand.

Law and science are very unlike. It is unfortunate that the word law should be applied alike to the rules of conduct formulated by man, and the orderly procedure of the phenomena of Nature. The viewpoint and the modes of thought of the lawyer and of the scientist differ widely. As a student in the Massachusetts Institute of Technology and a pupil of Sedgwick, Dr. Tobey became imbued with true scientific spirit; as a student of and lecturer on law, he has become familiar with its principles and forms, and his years of intimacy with the most important health movements of the day have filled him with an earnest desire for the prompt application of science to the furtherance of the public health. He is eminently qualified then to interpret in simple language to the health worker the principles of sanitary law.