THE LAW ON ADULTERATION: BEING THE SALE OF FOOD AND DRUGS ACTS, 1875 AND 1879, WITH NOTES, CASES AND EXTRACTS FROM OFFICIAL REPORTS. A HANDBOOK

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The Law on Adulteration: Being the Sale of Food and Drugs Acts, 1875 and 1879, with Notes, Cases and Extracts from Official Reports. A Handbook by Thomas Herbert

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A HANDBOOK

FOR MAGISTRATES, SANITARY AUTHORITIES, PUBLIC ANALYSTS, AND PRIVATE CONSUMERS.

BY

THOMAS HERBERT.

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*"I look upon the adulteration of what we eat and drink as one of the greatest evils in the world * * You, even you, who are supposed to be tolerably cultured men, have no idea of the pernicious effect upon the moral and physical well-being of your fellow creatures, produced by this adulteration."*

SIR ARTHUR HELPS.

London:
KNIGHT & CO., 90 FLEET STREET.

1884.

PREFACE.

It is believed that the present volume contains a reference to every legal decision, and an extract from every important official report, bearing on the Sale of Food and Drugs Acts; and that it will serve as a comprehensive guide to Local Authorities who desire to take measures for the suppression of adulteration.

The appointment of Public Analysts under the Acts has been practically universal, and there is therefore scarcely a district in England where the purchaser may not protect himself against adulteration. The table printed at page 36, however, shows that the operation of the Acts has been very partial. Analysts have been appointed, but in many cases nothing is given them to do. Although Local Authorities are empowered to procure samples for analysis, it is to be regretted that a large proportion of such Authorities have taken no action in the matter. It seems especially important that Sanitary Authorities, both Urban and Rural, should exercise their powers in this behalf. In the first place, adulteration has an important bearing on the public health, and although it is no doubt true that the public are less frequently poisoned than cheated—that the adulterants now employed are seldom of an injurious character—yet it must be admitted that the repression of a

practice which generally robs the food of the people of part of its nutritious value, and which in particular instances, *e.g.*, the adulteration of drugs—may have a direct influence on health, is essentially the function of Sanitary Authorities. Secondly, experience shows that unless samples are submitted officially for analysis, they are not likely to be submitted at all, since private individuals, especially the poor and uneducated, will not go through the prescribed formalities, and, moreover, do not like to appear to accuse their neighbours, the tradesmen. There are probably at least a thousand Sanitary Authorities in England who have taken no action whatever under the Acts; and it seems very desirable that the influence of public opinion, or of official mandate, should be directed to arousing them to protect the inhabitants of their districts against this insidious "form of competition." We trust that the present handbook may serve to promote the operation of useful Acts which are designed both to prevent the consumer from being defrauded, and to hinder honest tradesmen from being undersold by unscrupulous competitors.

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THE LAW ON ADULTERATION.

PAST LEGISLATION.

THE earliest attempts to suppress adulteration in this country seem to have been made more than six centuries ago. In the ancient Courts Leet, persons who sold victuals unfit for the food of man were liable to be fined, and the articles they exposed for sale might be forfeited and disposed of for the benefit of the Lord of the Leet. The first enactment on the subject which appears on the statute book is one of 1266 (56 Henry III., cap. 6), known as the "Statute of the Pillory and Tumbrel." It provides that "if a baker or brewer be convict because he hath not observed the assise of bread and ale, the first, second and third time he shall be amerced according to his offence, if it be not over grievous; but if he have offended grievously and often, and will not be corrected, then he shall suffer punishment of the body, that is to wit, a Baker to the pillory and a Brewer to the tumbrel (or cucking stool)." The same statute directs inquiry whether "any corrupted wine be in the town, or such as is not wholesome for man's body," and provides for the punishment of the adulterating vintners. Butchers who "sell contagious flesh, or that died of the murrain" are similarly dealt with, as well as "cooks that seethe flesh or fish with bread or water that is not wholesome

for man's body, or after that they have kept it so long that it loseth its natural wholesomeness, and then seethe it again, and sell it." It is rather surprising, considering the summary fashion with which adulteration was treated under this statute, that it was subsequently allowed to flourish with little check except where the Revenue was likely to be affected. Even the adulteration of bread could, until comparatively recently, only be dealt with by a somewhat cumbrous procedure. In the case of *Rex* v. *Treves*, however (2 East P. C., p. 281) which occurred during the French war, a contractor who had engaged to supply bread for the French prisoners, was prosecuted and convicted on account of its containing a large quantity of alum; and similar proceedings were taken at a somewhat later date against a contractor who had furnished bread of the same character to the Military Asylum at Chelsea. By the Act 3 and 4 Geo. IV., cap. 55, the adulteration of bread by alum within the metropolis was made a penal offence. The Act 6 and 7 William IV., cap. 37, was also directed against the adulteration of bread, and specified the substances from which it might be lawfully made, providing also that every loaf not composed of wheat flour should be specially marked. Offenders against the provisions of this Act were not only to be subjected to penalty, but to be liable to have their names, addresses, and offences published in some newspaper. With regard to tea there have been numerous Acts, which are summarised in the evidence of Mr. Hugh Owen, the present secretary to the Local Government Board, before the Select Committee of the House of Commons, in 1874. The first of these (11 George I.,