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A Study of the Administrative Elements Involved in Food Inspection in Illinois

Emmett C. Burke
Loyola University Chicago

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**A STUDY OF THE ADMINISTRATIVE ELEMENTS
INVOLVED IN FOOD INSPECTION
IN ILLINOIS**

**by
Emmett C. Burke**

**A Thesis Submitted to the Faculty of the Graduate School
of Loyola University in Partial Fulfillment of
the Requirements for the Degree of Master
of Social and Industrial Relations**

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CHAPTER I

INTRODUCTION

In his Introduction to the Study of Public Administration, White states:

Inspection is the examination and evaluation of some matter with respect to standards of public policy. These standards may be expressed in labor laws or in rules made in pursuance of law. Inspection is essentially the viewing of a condition and the making of a judgment as to whether the condition is in compliance with public policy.¹

This definition leads into a review of the historical background of inspection which indicates that this policy is an ancient one, having been practiced in the Mediaeval markets of Egypt, China, Greece and Rome. Local authorities, and later wardens of craft guilds, protected the reputations of their towns as important trading centers by maintaining standards of quality, price and weight, and by decreeing severe punishments for offenders.

During the dark ages the ancient standards of sanitation and construction of buildings disappeared. Before scientific

¹ Leonard D. White, Introduction to the Study of Public Administration, New York, 1950, 506.

study revealed how diseases could be transmitted through polluted water supplies, communities had again become aware of the need for pure water and were supplying it. Destruction of towns by fire resulted in better building and safety regulations.

In succeeding centuries flourishing trade made governments more aware of their dependence upon a sound economic life. For this reason France, with limited access to shipping, and greater dependence on small, stable markets, kept local administration of inspection, but attempted to have national regulations to protect the quality of goods.² Humanitarian protests against abuses resulting from the Industrial Revolution led to a number of government reforms through regulations. In Europe early reforms concerned conditions of work, special industrial hazards growing out of the use of machinery and steam boilers, and safety appliances. Hours and wages of labor gained interest later.

Because England was the first country in the world to successfully provide for inspection at the national level, it is important to include a brief summary of the history and development of inspection there. New markets discovered by explorers and traders put emphasis on quantity not quality of English commodities. The policy of laissez faire was a protest against restrictions and regulations that blocked the expansion of competi-

² Edith Ayres, "Inspection," Encyclopaedia of the Social Sciences, New York, 1932, VIII, 71.

tive production.³ The Industrial Revolution led to appalling labor and health conditions that finally aroused public opinion to the need for government legislation and inspection. The Health and Morals of Apprentices Act of 1802, enacted in the House of Commons, provided for shorter working hours, discontinued night work, provided that factories be whitewashed and sufficiently lighted and ventilated. This and a series of laws passed in the public interest up to the year 1833 failed because voluntary local inspection was not properly administered. The Factory Act of 1833 was remarkable in that it was the first legislation in any country to secure minimum inspectional standards at the national level, to provide for financing of inspection at the national level, and to eliminate the confusion that had been prevalent because of diversified administration of inspection. Thus England became a world leader in the field of public inspection and her system has been an example for all other industrial nations.⁴

In the United States the mercantile theory of the eighteenth and nineteenth centuries resulted in grading and inspecting of certain export commodities in New York as early as

3 Ibid., 72.

4 T. K. Djang, Factory Inspection in Great Britain, London, 1942.

1828.⁵ Since major factory legislation and inspectional practices in this country originated and progressed most successfully in Massachusetts, their early history and development play an important role in this sketch. In 1836 Massachusetts passed a law prohibiting children under fifteen years of age from working in any factory unless they had spent at least three months of the preceeding year in school. In 1842 that law further provided a ten hour working day for children under twelve years of age. Safety legislation related to the use of steam machines was passed in 1852, and inspection of boilers was provided for in 1870. Most of the legislation now included in factory safety codes was incorporated in the law of 1877. From 1836 to 1866 compliance with legislation rested completely on complaints by workers. In 1866 Massachusetts provided for inspection by district police.

Factory and general inspectional procedures slowly developed in other States. From 1866 to 1913 enforcement was provided in the States by various existing agents, usually the district police who were called inspectors. In 1913 the chief industrial States reorganized their policies of inspection and formed State Departments of Labor in order to centralize administration. The Federal Department of Labor with a Secretary of

⁵ Ayres, "Inspection," Encycl. Social Sciences, VIII, 72.

Labor was established in 1913. This Department was created to administer and enforce statutes in the public interest by promoting the welfare of wage earners, improving their working conditions, and enlarging their opportunities for employment.⁶

Since 1913, inspection as a means of enforcing labor and social legislation has developed throughout the United States. There is a wide variation as to scope, standards, administration and effectiveness of this inspectional service. This diversity in scope is evident in the following list of some of the major areas of inspection:

(1) Sanitation and Health

Concerned with inspection of

Water

Milk and Dairy Products

Public sanitary equipment

Minimum standards of light and air in
schools, homes, places of work

School children and immigrants

Communicable diseases

(2) Food and Food Establishments

Concerned with inspection of quality, preparation, distribution, handlers

⁶ Factory Inspection, International Labour Office, Geneva, 1923, 13.

(3) Drugs and Biological Preparations

(4) Safety

Concerned with inspection of

Transportation

Steam ships

Locomotives

Railways

Airplanes and landing fields

Motor vehicles

Concerned with inspection of

Utilities

Oil, Gas, Electricity

Atomic Energy Commission

(5) Public Welfare Institutions

(6) Factory

Concerned with inspection for industrial safety

and health and compliance with labor standards

(7) Weights and Measures

(8) Liquor Control

(9) Public Aid

(10) Mines and Minerals

(11) Registration and Education

(12) Revenue

(13) Conservation

(14) Finance

Purchases and supplies for state institutions

(15) Fire Prevention

(16) Smoke Abatement

(17) Building and Housing

Concerned with inspection of

Construction

Electric, Gas and Oil Equipment

Boilers

Elevators

Plumbing

(18) Special Contractors

Concerned with inspection of work done by
private contractors

(19) Equipment and Materials

Concerned with checking, measuring, testing,
sampling purchases by agencies for current use

(20) Services

Such as Barber Shops, Beauty Parlors

(21) Corporations

Such as inspection of

Trust Companies

Banks

Loan Associations

Insurance Companies

These major areas indicate that today the inspection process is used particularly in safe-guarding public health and welfare. It is a constant guard against the numerous and complex hazards peculiar to our highly industrialized and urbanized culture.⁷

From the preceeding historical sketch of inspection a discussion of the importance of this process as an administrative device emerges. Generally speaking, citizens are almost totally unaware of the valuable services performed by their inspection agents. According to Trull:

The devastating effect of a typhoid epidemic, the publicity occasioned by an elevator accident, the grim story of a tenement fire, the collapse of a theatre roof, the ptomaine poisoning of an entire family dramatically emphasize potential hazards and irate citizens then demand to know why the city had not prevented the disasters.⁸

Yet, efforts to eliminate or to reduce as much as possible the multitude of hazards resulting from technological and urban developments are constantly performed, primarily by inspectors. The value of inspectional services is immeasurable! Their protection of life and property has considerable financial worth as well as incalculable intangible returns.

Providing government protection against hazards injurious to public welfare, instead of requiring each individual to

7 White, Study of Public Administration, 508.

8 Edna Trull, The Administration of Regulatory Inspectional Services in American Cities, Municipal Administration Service, New York, 1932, 163.

furnish such protection for himself, has resulted in municipal inspectional services that from all indications will have to be increased in personnel, administration and expenditure in the future.⁹

There are three areas in which inspection is of special significance. The first is in providing compliance to legislation in circumstances where workers themselves cannot secure it because they lack the necessary technical knowledge and enforcement power, or cannot afford the risk of openly exposing illegal conditions practiced by their employers. The second is in enforcing social legislation provided by the interest and efforts of labor unions and reform organizations.¹⁰ The third is in maintaining common standards below which competition cannot go, thus protecting responsible producers from irresponsible ones.¹¹

Administration of inspection is an important business requiring specialized skills. The inspector is the person who translates the law into the realities which are its goals; such realities as shorter hours, better wages, elimination of child labor. He is governed by State authority and is expected to exercise this authority with common sense and good will. He is the

9 Ibid., 176.

10 White, Study of Public Administration, 506-507.

11 Ibid., 516-517.

constant contact between the State and labor, industry and the general public. Sometimes his work results in the compilation of data that leads to important new social or reform measures. The position of inspector has professional merit and should be given professional recognition.¹²

Inspection service constantly seeks ways and means of securing compliance with regulations without resorting to court compulsion. This is sometimes accomplished by providing helpful information such as how to remove hazards, how to apply current research findings, how to install inexpensive improvements to eliminate fatigue and fear of injury, and how to attain surroundings that are more orderly and clean. The advice and encouragement which are a vital part of inspection service contribute to industrial efficiency as well as to good human relations. The inspection policy is also very important in providing correct interpretation and application of laws.¹³

Beginning as a limited police function performed on a voluntary basis by people with very little authority, inspection service has progressed rapidly. It has become more extensive in scope, more resourceful in administration and more effective in enforcement. The complexity of modern problems of public welfare

¹² U. S. Department of Labor, Division of Labor Standards, Qualifications for General Labor-Law Inspectors, Bulletin No. 38, Washington, 1940, 2.

¹³ White, Study of Public Administration, 513.

require investigation and study, constructive adaptation of laws, and the confidence and help of employers and workers. The contrast between present regulatory service and that of the early committees that enforced only a few rudimentary measures is a forceful indication of the vigorous development that has taken place, the importance inspection has achieved, and the integral position it holds in the industrial and legislative systems.¹⁴

Having given brief consideration to the important role of the inspection service, it will be helpful to differentiate it from the work done by the regular police force. The inspection process is upheld by laws, but it relies primarily upon education, persuasion, exhortation and cajolery as means of securing enforcement of regulations. It differs in this respect, as well as in several other ways, from traditional police service. In mentioning a few of these differences, it is pointed out that inspection is specialized, dealing with a definite problem, such as compliance with sanitary regulations. This process may be a continuous service as in the case of Federal meat inspection, or a periodic service such as the annual inspection of steam boilers. In contrast, police service must be constantly available, within the broad specifications of criminal law.¹⁵

¹⁴ Factory Inspection, International Labour Office, Geneva, 1923, 13.

¹⁵ White, Study of Public Administration, 506.

Legally, inspection is the right to enter premises with the authority to investigate. Administratively, it is much more than that, for it is a service requiring technical information, discretion and professional interest. It is a task involving explanation and interpretation of laws. The inspector is a servant of the State whose success is measured in terms of his ability to win the confidence and good will of the people with whom he works so they will more readily comply with legislation in the public interest.¹⁶ The police enforce laws mainly through crime prevention, crime repression, apprehension and prosecution of criminals and recovery of stolen property, and the regulation of the general public.

Inspection service emphasizes prevention of violations more than police service does. It heeds not only the letter of the law, but the spirit of the law too. As a result, the inspector can offer the people he contacts new ideas, methods and devices. He can present suggestions to proper authorities for improvement or replacement of regulatory laws.¹⁷

Specialized agents, such as building, health, sanitary and fire inspectors, are increasingly being assigned to tasks of

¹⁶ Djang, Factory Inspection in Great Britain, 16.

¹⁷ U. S. Department of Labor, Division of Labor Standards, Inspection Manual, Bulletin No. 20, Washington, 1938, 12.

investigating specific regulatory practices too numerous and too technical for the regular police. Therefore, inspectors gain more compliance because they engage in enforcement more regularly and more thoroughly.

The police represent coercion which, though necessary, is but one of many elements needed in establishing and maintaining public policy. Inspectors are in a position to use practical methods gained through experience and to anticipate and avoid many difficulties before they arise. Their awareness of alternatives is particularly useful.¹⁸ Power and authority alone are not sufficient to maintain enforcement of laws, and unless they are substantiated with appropriate personal appeal they will fail.¹⁹ The inspection process seeks to win the long-range interest and support of the public, not to gain grudging acceptance of compliance for the moment.²⁰

Inspection differs from regular police service in that it practices a certain degree of elasticity and discretion because swift progress in modern science and industry constantly determines anew what constitutes the latest facts and methods in promoting public welfare. In some instances, as in the field of

¹⁸ George A. Graham and Henry Reining, Jr., Regulatory Administration, New York, 1943, 1.

¹⁹ Ibid., 18.

²⁰ Ibid., 8.

biologicals, this flexibility in inspection service has been responsible for information and experimentation leading to standardization of materials.²¹

This introduction has presented in brief form a definition of inspection, its historical background, its importance as an administrative device and the difference between inspection and police work. Following the introduction is a second chapter on the elements of inspection, geared to no specific type, but applicable to inspection in general. The next chapter is a study of food inspection in Chicago specifically, based upon secondary source material secured primarily from the Statutes of the State of Illinois and the inspection service as administered and enforced by the Chicago Board of Health under the authority of the Municipal Code of Chicago. The final chapter presents conclusions centering around (1) the factors determining the success of inspection programs; (2) the Chicago Board of Health which is responsible for administering and enforcing food inspection in Chicago; and (3) some implications of the future importance of the inspection process.

²¹ Ayres, "Inspection," Encycl. Social Sciences, VIII, 72.

CHAPTER II

SURVEY OF ELEMENTS OF INSPECTION

Personnel qualifications, training, and salary; budget; standards; procedure; and sanctions are the major elements of inspection that will be considered in this chapter. To a large extent, the success or failure of the inspection program depends upon the personnel intrusted with its administration. In large cities most of the inspection personnel is secured through competitive examination.¹ In considering personnel qualifications for inspectors there is evidence that wide variations exist. However, the basic requisites seem to be United States citizenship, a prescribed amount of formal education or its equivalent, and a prescribed number of years of practical experience. Usually the formal education requirement makes elementary school education mandatory and high school education desirable. Some types of inspection services make college education necessary.²

¹ Trull, Administration of Regulatory Inspectional Services, 166.

² Labor Division, Qualifications for General Labor-Law Inspectors, No. 38, 4-5.

Certain personal characteristics are considered essential because they determine the quality and effectiveness of performance. These characteristics include honesty, integrity, good judgment, application, initiative, tact, keen observation, thoroughness, resourcefulness, reliability, emotional stability, courteousness, friendliness, fairness, assiduity, good self expression and neatness of appearance.³

Applicants are judged by the civil service commissions on the basis of their previous experience, rating about four points; a written examination, rating about three or four points; and an oral examination, rating about two or three points. The purpose of the written examination is to indicate ability to write clear and concise reports; to compute mathematical problems involved in the work; to analyze and apply pertinent State and Federal legislation; and to demonstrate understanding of the need for and purpose of the inspectional services involved. The aim of the oral examination is to provide an opportunity to evaluate the applicant's personal fitness for and attitude toward the position under consideration.⁴

Generally there are no specific age and physical qualifications. It is felt that applicants should be mature enough to

3 Labor Division, Inspection Manual, No. 20, 6.

4 Labor Division, Qualifications for General Labor-Law Inspectors, No. 38, 4.

have attained the required training, experience and character traits. They should possess considerable physical and mental stability required in line of duty. Applicants should be young enough to allow for a reasonable period of successful service. In cases where age limits are specified they are usually twenty-five to fifty years.⁵

Training of personnel usually provides for a probationary period of at least six months. This provides for the release, without formal procedure, of any persons who have proven themselves unsuited to the inspection work assigned to them.⁶ The training generally allows a two week period of initial training to offer specific instruction about the administrative organization of the department and its branches; the program of related agencies on the State and Federal level; the laws, rules, regulations and interpretations the probationers will be expected to enforce; and general office policies and reports.⁷

Following the initial training, provision is usually made for a period of at least four weeks of field training so that the probationers can accompany several trained inspectors as observers and assistants. It is desirable that their first two weeks of independent inspection be observed by a trained inspector

5 Ibid., 5.

6 Ibid., 6.

7 Ibid.

and discussed with the supervisor. Such a procedure will reveal their understanding of regulations to be enforced, soundness of their judgment, quality of their reports, and standard of their personal fitness and interest.⁸

Continued training usually provides an up-to-date manual of administrative instructions and general inspection methods and procedures. It also offers opportunities for the inspection staff to meet with supervisors for discussions of changes in laws, new laws, special problems and matters of general interest. Training can continue through study of publications in the field and participation in departmental conferences.⁹

Of equal importance with appointment and training is the necessity for improvement in opportunities. Competent personnel will be attracted to inspectional service quicker and remain in it longer if they are offered definite promotional opportunities and assurance of permanency and pensions.¹⁰

The Illinois State inspector service requires intelligent, active and technically trained employees who are not obtainable in the present labor market at \$250.00 per month for jobs which have a life expectancy of no longer than four years.¹¹

8 Ibid.

9 Ibid.

10 Illinois Department of Finance, Field Investigator Conference, 1952, 11-12.

11 Ibid., 11.

Generally speaking, the inadequate salaries paid in inspection service blocks the employment of desirable personnel. Often it is necessary to rely on persons who are fairly intelligent and possess some practical experience that partially qualifies them for their duties as inspectors.¹² In many localities public employees receive pitifully low salaries. In 1948 all state and local government workers were paid an estimated average yearly salary of \$2,400.00. It is therefore evident that the large majority of public servants are in the low or moderate income levels.¹³ Such an inadequate pay policy has resulted in inequalities in salary schedules, recruitment and turnover problems, decreased efficiency and lowered morale. Government salaries should compare at least roughly with the best in private industry, and the lowest wages should be such as would allow minimum levels of healthy and decent living.¹⁴

In a few of the larger states public pay schedules have improved since World War II due to the rise in the cost of living resulting from relaxing of wartime price controls. In 1950 the California State Personnel Board conducted an investigation of

¹² Trull, Administration of Regulatory Inspectional Services, 26.

¹³ William E. Mosher, J. Donald Kingsley, and O. Glenn Stahl, Public Personnel Administration, New York, 1936, 243-245.

¹⁴ Ibid., 257.

its inspectional classification and salary problems. The result was the establishing of two general classes of inspectors. One class is known as Field Representatives and is primarily concerned with securing compliance with and preventing violations of tax, licensing, or other laws, rules, or regulations. The other class is known as Special Investigators and is primarily charged with discovering violations, locating witnesses and violators, and securing evidence necessary to prosecution. Special Investigators are responsible for such services as narcotic enforcement, fraud detection, and enforcement of professional and vocational standard laws. The basic inspectional salary schedule in California is as follows:

Inspector and Trainee Special Investigator	\$255-310
Field Representative	268-325
Special Investigator and Supervising Inspector	295-358
Supervising Field Representative	310-376
Supervising Special Investigator and Special Agent	341-415.15

The inspection budget is important because of a well established principle that a statute lives by appropriation. Inspectional appropriations need to be sufficient to permit the agents to exercise their duties; to provide for administrative expenses; to make available necessary materials and equipment; to

pay for official travel; to finance the printing and publishing of literature with which to educate the public; and to make available compensation for lay persons whose participation on various boards, councils and committees are necessary to democratic functioning. In general, the budget status of inspectional services is not adequate. For example, in many states less than one cent per industrial employee is allotted to meeting the budget of labor law inspection. There are indications to show that some states allow more for fish and game law enforcement, and more for egg laying contests, than for inspection of labor standards.¹⁶

Inadequate budgetary provisions result in the curtailment of the number of inspectors, the training of inspectors and the efficiency of inspectors. In addition such provisions limit career opportunities in this field and prevent favorable competition with salaries paid in other phases of employment.¹⁷

In briefly discussing constructive budgetary policy it is helpful to point out that usually a progressive city starts planning eighteen months before the time the proposed expenditures will be used. This makes it impossible to foresee all the situations that might arise. A system of executive allotments and work programs allows for the needed elasticity in adjusting the budget to varying conditions. The appropriations are adopted

16 Graham and Reining, Regulatory Administration, 112.

17 Ibid.

in large sums for each department of a given agency. When appropriations have been passed the administrating officer requests each departmental head to provide detailed plans of expenditure covering definite periods of the fiscal year in terms of months or quarters. The plans for all the periods are presented at the same time and are called work programs for the various periods. After the departmental head and the administrating officer agree on the work programs they are sent to the chief accounting officer and they become executive allotments. The proposals are set up on the appropriation ledgers for accounting control and spending authority is thus established under lump sum appropriations under broad but assured administrative control. At the end of each allotment period the work programs covering the rest of the year are studied in terms of the situation up to that point. For example, health inspection service may have faced an unexpected epidemic during the first work period and had to request permission to exceed its quota. When the second work period began the health inspection department was requested to revise the remainder of its work periods in order to make up the first quarter deficit.¹⁸

The chief administrating officer, or staff as the case may be, has the responsibility of coordinating and allocating a

¹⁸ John M. Pfiffner, Public Administration, New York, 1946, 398-399.

limited budget to numerous departments competing for their share. Such a person, or persons, should have broad, social vision and managerial outlook.¹⁹

There seem to be two ways for inspection agencies to secure more adequate budgets with which to execute their programs. One of these is to help mold stronger public opinion and labor organization power and efficiency so that the pressure of industrial lobbies against suitable appropriations can be overcome. The second way is to educate the employer to the realization that the inspection program serves him as well as his employees and deserves his support in securing adequate budgetary allotments.²⁰

Standards play significant roles as elements of inspection for they determine its legal authority. Certain inspection standards are based on state laws enforced by the municipality as an agent of the state. Other inspection standards have resulted from additional legislation passed by the municipality to supplement state laws.

In this country administrative tribunals are statutory creations and their rights, duties, powers and privileges are of statutory derivation. There is no "common law" of administrative tribunals. However, not all of the law of administrative tribunals is found in the express language of statutes. Much of it is derived by implication and is

19 Ibid., 380.

20 Graham and Reining, Regulatory Administration, 112.

arrived at by the process of interpretation of the express language of the statutes. Again, constitutional limitations play a prominent part in the formulation of the law surrounding the subject, and it frequently happens that the express terms of statutes must be restrictively construed to keep them within constitutional limits. In a word, then, we look for the rights, duties, powers and privileges of administrative tribunals in either the express language or the implications of statutes, all construed in the light of prevailing constitutional limitations. An adequate realization of this as the source of the law of the subject is an essential first step toward a proper understanding of it.²¹

Uniform inspectional standards required of municipalities by states do not exist, but municipalities are expected to perform numerous and varied functions in the public interest.²² Usually states and municipalities both inspect milk, food, food establishments, and hotels. Inspection of barber and beauty shops is usually the responsibility of the states. Housing and general sanitary inspection usually are the concern of municipalities.²³ Some states provide detailed methods for municipalities to follow. Others provide a general plan to be interpreted and executed by local inspection officers.

Most of the recent administrative action of government

21 E. Blythe Stason, The Law of Administrative Tribunals, Chicago, 1947, 13.

22 Trull, Administration of Regulatory Inspectional Services, 31.

23 Ibid., 33

provides for judicial review. This provision was not a part of the procedure in the past.²⁴ In all cases coming before a court or administrative agency it is necessary to look to the legislative provisions creating the authority. The judicial body may properly seek to ascertain the following conditions:

- (1) The type of administrative action required by statute
- (2) Does the court have jurisdiction
- (3) What type of procedure is required by statute
- (4) To what legal body can an appeal be finally directed
- (5) Does the statute hold to the recent Supreme Court doctrine that "the one who decides must hear"
- (6) Is due process provided and to what are the technical limitations as to practicable administrative procedure
- (7) Must the litigant adhere to the common law rule of evidence
- (8) The nature of the hearing.²⁵

In addition to standards set by statutes, administrative agencies are authorized to issue procedural rules and regulations which are necessary for carrying out the provisions of the

²⁴ Frederick F. Blachly, Federal Regulatory Action and Control, Washington, 1940, 113.

²⁵ Ibid., 114.

law. Procedural rules and regulations have to do with the method of conducting cases before the authority itself. Because the types of cases handled by various agencies are so different, prescribed standards of administrative procedure as a means of controlling administrative discretion are necessary.²⁶ This has made it necessary for many states and the Federal Government to pass some type of administrative procedure act.²⁷

One aspect of the element of procedure is frequency of inspection. To a large extent this depends upon the type of establishment being visited. In general a regular annual inspection is the minimum service, plus any additional inspections required because of complaints, suspected failure to comply, extra-hazardous work, re-inspections, and accident investigations. The number of inspections performed by one inspector is determined by various factors including the kind of service, the size of establishments, the distance to be traveled, the kind of transportation used, and the number of laws to be enforced.²⁸

Responsibility, as it relates to procedure, requires that inspectors:

(1) Possess a thorough knowledge of the law, rules, and regulations necessary for proper enforcement of legislation in-

26 Ibid., 150.

27 Stason, Law of Administrative Tribunals, 158.

28 Labor Division, Inspection Manual, No. 20, 11.

involved. Know organization of own department and agency

(2) Exercise tact and courtesy at all times as a part of the policy of securing as much compliance as possible through the means of cooperation and education

(3) Present a neat and business-like appearance

(4) Support laws, rules and regulations in public. Reserve suggestions or criticisms for private consultation with supervisor

(5) Devote required time, and over-time when necessary, to regular duties

(6) Keep supervisor informed of field address and any change in permanent address and telephone number

(7) Secure proper authorization for obtaining material to be used for publication or for official speeches

(8) Be responsible for inspecting all establishments within own jurisdiction and reporting to immediate superior

(9) Complete reports on the premises at the time inspection is made, except when technical information must be added later. Examine all reports carefully and mail required ones to the department daily

(10) Refuse all gratuities

(11) Exercise care in use of departmental equipment and supplies

(12) Turn in credentials and equipment when leaving the service

(13) Acknowledge departmental communications promptly

(14) Use rubber-stamp signature only on form letters or departmental forms

(15) Cooperate with other units of the department and with other departments having related duties²⁹

(16) Maintain secrecy in regard to matters in line of duty.³⁰

Equipment necessary in inspectional procedure includes credentials which are to be carried at all times and certain supplies. Among these supplies are a notebook and sufficient copies of necessary laws, rules, regulations, forms, posters, records, thumb tacks for posting, flashlight and any other equipment required in line of duty.³¹

The procedure is that regular inspections are made during the regular working hours of the establishment. Inspection is made before or after such hours if violations are suspected. In cases where there is more than one shift, each shift is inspected. Where there are seasonal or peak periods the inspection takes place during such periods to check on compliance, and,

²⁹ Ibid., 12-13.

³⁰ Illinois Department of Finance, Field Investigator Conference, 1952, 11.

³¹ Labor Division, Inspection Manual, No. 20, 11.

prior to such periods, to check on any corrections needed. When new laws, rules or regulations are adopted, agencies concerned are inspected immediately.³² Visits should interfere as little as possible with the operation of the agency concerned.³³

The procedure for entrance requires the inspector to present his credentials, state the purpose of his visit, and ask for someone in authority. When presented to this person, the inspector shows his credentials and explains his business. He asks to be accompanied during the inspection by the employer, manager or other responsible official who has the authority to make any necessary changes. If there is interference or if information is illegally withheld, the inspector reports the matter to his supervisor for necessary action.³⁴

There is no specific procedure as to the order of inspection that will be suitable for all situations. Several factors determine whether the records or the agency should be inspected first. Probably the inspector will visit the agency first if he is not already completely familiar with it or if he wishes to question employees. If he suspects that there will be an attempt to conceal evidence of possible violations he will probably inspect the records first. If the records are unusually

32 Ibid., 25.

33 Finance Department, Conference, 11.

34 Labor Division, Inspection Manual, No. 20, 25.

inadequate, it is advantageous to visit the agency first. Some states require inspectors to change the order of their routine occasionally to prevent employers from having the advantage of knowing how the inspection will proceed.³⁵

One of the most important procedures is the state requirement for conspicuous posting of the laws, abstracts of laws, rules and regulations so they may be easily read by the employees. The inspector observes whether this is complied with, whether the text is the most recent one, whether the text is defaced, and stamps the posted law with the date of each visit. He includes failure to post in his report.³⁶

Some inspection departments require that orders for compliance, taking into consideration the inspector's written report, be forwarded to the employer in written form by the head of the department. If this is the case the inspector discusses the regulations and any variations observed with the employer. Afterwards he sends a complete report of his findings to his supervisor. Other inspection departments follow the policy of having the inspector discuss the orders with the employer or person in authority, give them to him in writing, and secure his signature. It is desirable to have copies in triplicate so that one is avail-

35 Ibid., 26.

36 Ibid.

able for the department, employer and inspector. Whichever method is used the inspector discusses with the employer practical steps toward meeting the requirements so as to win his interest and cooperation. Often it is advantageous to include the foreman in these conferences so both may better understand the legislation, the reasons for it; and the desire of the inspector to secure enforcement without court action. During such discussions the inspector's psychology of handling people plays an important role. Use, not misuse, of authority is evident in a courteous, considerate effort to interpret laws and regulations and explain how to comply with them.³⁷ If the inspector observes anything that is not an actual violation of any specific provision of the law or rules, but appears to be hazardous, he discusses it as an actual violation with the employer and reports it in detail to his supervisor for his consideration.³⁸

A definite time limit for compliance is set for each violation of the law. Some states leave this to the discretion of the inspector, within the limits of the law, and his recommendation becomes a part of the notice of violation sent to the employer. In other states a definite time limit of ten, twenty or thirty days is allowed, depending on the type of violation, and

37 Finance Department, Conference, A-1

38 Labor Division, Inspection Manual, No. 20, 27.

providing there are no definite stipulations in the laws to the contrary. Inspectors refrain from the use of legal coercion as much as possible because it prevents the type of harmonious cooperation so necessary to the success of their work. It is to be remembered also that prosecutions are costly in terms of money, energy and time.³⁹ Upon request, the employer is given information to use in making appeals from notice of violation.⁴⁰

Reinspection is one phase of procedure that checks on compliance after a notice of violation or some other order has been served following a regular inspection. It takes place as soon as possible after the latest date set for compliance with the notice of violation. The entry procedure is the same as for a regular inspection. If the inspection reveals indications of compliance since the date of the last regular inspection, the inspector makes another regular inspection at the same time he is inspecting for compliance with the violation notice. He makes a regular inspection report as well as a reinspection report concerning the areas on the violation notice. If discontinuance of objectionable equipment or practices voids the notice of violation the inspector notes this on his reinspection report so that his departmental head may grant the employer a waiver.

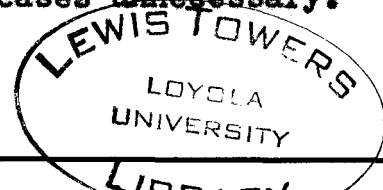
Usually if some areas on the violation notice have not

39 White, Study of Public Administration, 511.

40 Labor Division, Inspection Manual, No. 20, 27.

been complied with at the time of the first reinspection, the inspector discusses them with the employer for full understanding and sets a definite compliance date. A second reinspection takes place immediately after that date. If full compliance still has not been accomplished, the inspector sends in his report so the departmental head can make final notification or have the chief inspector visit the establishment. Such a visit usually has great psychological effect toward securing compliance. If there is evidence of good faith toward meeting requirements at the time of the second reinspection the inspector grants an extension date. Sometimes if more than thirty days are required the inspector includes the details and recommendations in his reinspection report. Provided it meets with departmental approval, the employer is notified of the extension and necessity for compliance within the time specified. Failure to meet requirements after this date makes it necessary for the employer to come to the departmental office and personally explain the reason. If circumstances justify it, he is given a further extension of time. If they do not, he is warned that compliance must take place by a specific date or the case will be legally prosecuted. Such conferences provide opportunities for the department to help the employer gain a better understanding of the need for and intent of the legislation, and often make many possible court cases unnecessary.⁴¹

⁴¹ Ibid., 58.



Sanctions are of great importance as an element of inspection. Leonard D. White defines sanction as "a conditional evil annexed to a law to produce obedience to that law."⁴² In order to achieve compliance to laws a complex system of sanctions usually requiring some form of judicial action has developed. There are times when administrative pressure is applied through penalties that do not require court action. Fine and imprisonment are the most typical kinds of sanctions. Other kinds include forfeiture of commodities or property, of citizenship, of voting rights, of the right to hold office, and of valuable benefits. In almost all instances, sanctions are imposed by courts. The sanctions may be determined by law without any discretion in regards to their weight. Often they have specified minimum and maximum terms.⁴³

Some sanctions are of an extra-legal nature. One of these is the use of propaganda to interest citizens in supporting legislation. It seeks to make people believe that acting as desired will result in worth-while goals. Another is the psychological weapon of legitimacy of behavior. Statutory approval of one type of behavior serves as an inducement for enforcement. When a policy becomes law, obedience is presumed to a large extent and this holds true unless compliance is too dear, or unless

⁴² White, Study of Public Administration, 560.

⁴³ Ibid.

disobedience-by some citizens negates majority confidence in the legislation. The factor of legitimacy has the support of the entire machinery of legal enforcement, the courts, the police, inspectors, and, if necessary, the armed forces.⁴⁴

Further extra-legal sanctions include such acts as direct economic competition by the government, educational campaigns, demonstrations, mediation and conciliation, refusal or withdrawal of benefits, denial or revocation of license, and summary action. Refusal or withdrawal of benefits, now a major type of administrative sanction, involves on the federal level such action as exclusion from mail service, the power to bar in fraud cases, prevention of circulation of obscene and objectionable matter through the mail. Exclusion from participation in open competitive examination, exclusion from bidding on public contracts, and withdrawal of workmen's compensation benefits are other examples of extra-legal sanctions.⁴⁵ In most cases refusal to grant or to renew a license or permit or suspension or revocation of them come within the scope of administrative sanctions. However, there is provision for some type of judicial review of these situations. Summary powers permit the administrative body to apply immediately and directly the sanctions that would normally take

⁴⁴ Herbert A. Simon, Donald W. Smithburg, and Victor A. Thompson, Public Administration, New York, 1950, 470.

⁴⁵ White, Study of Public Administration, 561.

place after court action. Such procedures usually receive judicial consideration later. It is the general practice to reserve imposing of fines and prison sentences to the courts.⁴⁶

Most legislation includes sanctions in the form of fines or imprisonment to accomplish its compliance. Judicial sanctions are not particularly well adapted to many modern regulatory problems. This is especially true in cases of mass regulation. One violator can set in motion elaborate legal machinery which is costly from the point of view of time, energy and money.⁴⁷ When administrative action fails to secure conformance, judicial action must be taken. Often by merely confirming administrative findings the courts achieve substantial compliance without actually having to impose fines or prison sentences. When there are court sentences they are executed by a different group of administrative officers, U. S. marshals, sheriffs, and prison superintendents. These officers act under judicial, not administrative, authority. Primarily the judicial function is to impose sanctions, and the administrative function is to request court assistance when necessary and to execute the decisions handed down.⁴⁸

⁴⁶ Ibid., 563.

⁴⁷ Simon, Smithburg, and Thompson, Public Administration, 478.

⁴⁸ White, Study of Public Administration, 567.

Administrative officers have wide discretionary powers that tend to make their efforts toward enforcement of equal importance with that of the courts. These powers include such factors as deciding the cases to be prosecuted, kind of procedure, time, parties, presentation of evidence, and the selection of the court. Administrative officers prefer not to resort to court sanctions unless absolutely necessary because in their opinion more satisfactory and permanent social results are secured through administrative policy and philosophy than through judicial enforcement.⁴⁹ In the final analysis, the moral power represented by officials and the habit of obedience exhibited by most citizens usually make judicial action unnecessary. In this sense the people are self-governing.⁵⁰

⁴⁹ *Ibid.*, 568-569.

⁵⁰ *Ibid.*, 569.

CHAPTER III

FOOD INSPECTION IN CHICAGO

A brief discussion of the origin and development of food inspection laws on the State level will precede the study of food inspection on the city level, to which this chapter is to be devoted. The earliest Illinois statute regulating food dates back to May 14, 1907, when House Bill No. 844 was approved. This statute was:

An Act to prevent fraud in the sale of dairy products, their imitation or substitutes, to prohibit and prevent the manufacture and sale of unhealthful, adulterated or misbranded food, liquors or dairy products, to provide for the appointment of a State Food Commissioner and his assistants, to define their powers and duties and to repeal all Acts relating to the production, manufacture, and sale of dairy and food products and liquors in conflict herewith,¹

The following summary indicates the phases of regulation provided for by this Act:

Manufacture of adulterated or misbranded food

Prohibition of misbranded or adulterated articles

Confiscation and condemnation of misbranded or adulter-

¹ General Assembly of the State of Illinois, Laws of the State of Illinois: 1907, Springfield, 1907, 543.

ated foods "

Branding of vinegar

Labeling of extracts

Labeling of baking powder

Prohibition of adulterated spirituous, malt or vinous

liquors

Prohibition of mutilated label

Prohibition of sale of unclean or unwholesome milk for
consumption and use of unsanitary containers

Persons receiving milk to wash cans

Prohibition of manufacture of food from impure or un-
clean milk or cream

Sale of skim milk and labeling of cans

Instruments for measuring milk and cream standards

Prohibition of underreading Babcock test

Prohibition of sale of preservatives

Marking of vehicles

Illegal lard

Lard substitutes

Informing purchaser of imitation or substitute for lard

Prohibition of sale of process butter not branded

Branding of process butter

Seizure of illegal foods

Issuance of search warrants for illegal food

Prohibition of certificate of purity by State Analysts
Using shift or device

Master's liability, etc.

Paying of penalties, license fees and proceeds to State

Treasurer

Size of type of label

Standard of purity and strength²

The Act empowered the Governor to appoint, when necessary, a food standard commission to determine and adopt standards of quality, purity, or strength of food products. It further provided that he appoint a State Food Commissioner to serve for four years and until relieved from duty by his successor, at a salary of \$3,000 per year plus necessary expenses incurred in discharging official duties. Under this Act the Commissioner was authorized to enforce all existing and future State laws regarding the production, manufacture, sale and labeling of food, and to prosecute or cause to be prosecuted all violators of this law.³

The Commissioner was instructed to appoint a practical dairyman as his assistant commissioner, one chief chemist to be known as State analyst, five analytical chemists, one attorney, one chief clerk, one assistant clerk, three stenographers and

2 Ibid., 543.

3 Ibid., 544.

twelve inspectors. Each Inspector was to receive a salary of \$1,200 per year plus necessary expenses incurred in performing his duties.

The Commissioner was charged with the duty of making annual reports to the Governor, not later than January 15th., of his work and proceedings, and of the number of inspectors appointed, giving their salaries, expenses, and disbursements. He was given the responsibility of issuing bulletins of information from time to time to promote the interests of the State. He had a further obligation of maintaining an office and laboratory in which to conduct the business of his department.⁴

There was provision for the Commissioner and inspectors to make examinations as often as necessary to determine whether any manufactured food was in compliance with the law. Examinations were to be made of all premises, carriages, or cars where food was manufactured, transported, stored, or served to patrons, to determine their sanitary condition and to secure samples of the raw materials and finished products found. The samples were to be analyzed to ascertain the existence of violations of the law.

Such seizure was to be made without a warrant and the Commissioner and inspectors were given the full power and authority of policemen.⁵ Any court having jurisdiction was, upon re-

⁴ Ibid., 545.

⁵ Ibid., 555.

quest, to issue a search warrant and bring about a search of any suspected place so that food contents there could be examined. The State's attorney in any county of the State, when requested by the Commissioner or his assistants, was required to render any legal aid in his power to execute the law and to prosecute cases arising under the provisions of this Act. Employees on common carriers were authorized to assist inspectors, when requested, in tracing, finding, or disclosing the presence of prohibited articles of food and in securing samples.⁶

If violations were discovered, the Commissioner was to notify the violator not to offer the suspected goods for sale or to dispose of them in any way until consent was obtained. Following this, he was to proceed with a hearing and subsequent action as provided in this Act.

There was authorization for the Commissioner or any of his assistants to give special reports of the results of examination and analysis of samples of food or drink submitted by the State Board of Health. He was responsible for establishing rules and regulations for carrying out the provisions of this Act, and for analyzing and reporting on samples taken under any law or laws of the United States by any officer charged with the enforcement of laws relative to the manufacture, sale, or transportation of

6 Ibid., 545.

food products.⁷ The term food as considered in this Act includes "all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound, and any substance used as a constituent in the manufacture thereof."⁸

When examination or analysis indicated the violation of this Act, the Commissioner was to notify the party or parties from whom the samples were obtained, and was to give them a copy of the findings. Notice and copies were to be forwarded by registered mail to the person, if any, whom the label indicated to be the manufacturer, packer, wholesaler, retailer or other dealer. The persons notified were to be granted a private hearing in person or by attorney, under the rules and regulations provided. If the persons were found guilty, they were to be prosecuted as prescribed in this Act within ninety days from the date the sample was taken.⁹ Violators were required to pay, for the first offense, a fine ranging from fifteen to one hundred dollars, or be imprisoned in the county jail for a period ranging from one to thirty days, or be subjected to both fine and imprisonment if the court so ordered. For the second and each succeeding offense the penalty was a fine ranging from twenty-five to two hundred dollars, or imprisonment not exceeding one year, or subjection to

7 Ibid., 555.

8 Ibid., 547.

9 Ibid., 557.

both fine and imprisonment, at the discretion of the court.

Fines required additional payment of court costs, and imprisonment upon failure to pay both.¹⁰

The Supreme Court in passing upon the validity of the Pure Food Laws of 1907 held:

In the case of the People of the State of Illinois, Defendant in Error vs. W. T. Price, Plaintiff in Error

1. In construing statutes the intention of the legislature is to be ascertained and given effect if possible, and if a statute is susceptible of more than one construction it should be given a construction which will effect its purpose rather than one which will defeat it.

2. One of the objects of the Pure Food Law of 1907 is to protect the public health by prohibiting dealers from selling food to which has been added for the purpose of preserving it, ingredients injurious to health, or from selling any compound as a preservative which contains any such ingredients.

3. Section 8 of the Pure Food act, which prohibits the sale of foods to which an ingredient injurious to health has been added, and Section 22, prohibiting the sale of any unwholesome or injurious preservative, must be construed together so as to give effect to the manifest purpose of the act itself.¹¹

Plaintiff in error in this case was fined fifty dollars and costs in the Municipal Court of Chicago for violating the Pure Food Statute of 1907. The Supreme Court held that the Municipal Court did not err in the judgment rendered, and the judgment was affirmed.¹²

10 Ibid., 558.

11 People v Price, 257 Illinois, 587.

12 Ibid., 587.

In the case of the People of the State of Illinois, Defendant in Error, vs. The William Henning Company, Plaintiff in Error, the Supreme Court held that:

Police power authorizes regulation to prevent fraud and deceit. Under the general police power of the State the legislature may make regulations to prevent fraud and deceit as well as for the public health safety and comfort, and in connection with the regulation of food products, may prohibit the use of coloring matter or the mixing of harmless ingredients of the same general nature in such a way as to deceive or mislead the public into accepting the compound for another product.

We have held in this opinion that this compound is manufactured contrary to the provisions of this Act. Under the definition of the word given by these standards lexicographers, the meaning of the word 'adulterated' in the title of the Act is broad enough to cover the construction here placed upon said section. The law is therefore not unconstitutional.¹³

In most respects, the Act of 1907 has remained in its original form. Three major exceptions to this were noted. Its title was amended in 1937 to read Pure Food Regulations. There is now provision for prosecution of violators to begin within one year from the date samples were first taken, instead of within ninety days as stated in the original statute. The present enforcement is carried out by the State Department of Agriculture, where previously it was the responsibility of the State Commissioner of Food.¹⁴

¹³ People v Henning, 260 Illinois, 554.

¹⁴ State Bar Association, Illinois Revised Statutes 1951, Ch. 1-79, Chicago, 1951, 1987-1996.

Through the years since 1907 additional food legislation has been enacted in Illinois. At the present time the following laws are in force:

Butter substitutes: Act of June 28, 1923 repealed by Act of June 11, 1951

Handling, sale and processing of Eggs: Act of June 28, 1919 repealed by Act of August 2, 1951

Regulating sale and analysis of concentrated feeding stuffs: Act of May 18, 1905

Sanitary inspection: Act of June 5, 1911

Uniform cold storage act: Act of June 28, 1917

Cold storage locker plants: Act of July 1, 1941

Protection from adulterated foods: Act of June 25, 1917

Pasteurized Milk and pasteurized milk products: Act of June 30, 1925 repealed by Act of July 24, 1939

Graded milk and products: Act of July 19, 1939 repealed by Act of July 17, 1945

Dairy plants: Act of May 29, 1945

Horse meat: Act of July 12, 1951.¹⁵

Each of these Acts is enforced by the State Department of Agriculture. There is provision for judicial review of all final administrative decisions of this Department.¹⁶ The Department has

¹⁵ Ibid., 1984-1987.

¹⁶ Ibid., 2000.

power to issue or renew or to refuse to issue or renew, to suspend, and to revoke licenses of violators.¹⁷

Turning now to food inspection on the City level, it is interesting to trace the original authority for this activity. The corporate existence of all cities in the United States is derived from charters obtained from their State legislatures. These charters describe the powers and duties of the different municipal officers and agencies, and prescribe the procedure under which they are to be exercised. In many cases, the charters or the State constitutions empower Governors to remove municipal officers who abuse their powers or fail to carry out their responsibilities.¹⁸

The Old City Charter was approved March 4, 1837 in "An Act to incorporate the City of Chicago."¹⁹ Section 47 of that Act stated:

The Common Council shall have power to establish and regulate a market or markets in said City, and to restrain and regulate the sale of fresh meats and vegetables in said City, to restrain and punish the forestalling of poultry, fruits and eggs, and to license, under the hand and seal of the Mayor, annually, such and so many butchers as they shall deem necessary and proper, and to revoke such license for any infraction of the by-laws and ordinances of the Common Council or other malconduct of such butchers in the course

17 Ibid., 2013.

18 New York Times, March 15, 1953, pt. E, p. 7.

19 Laws and Ordinances Governing the City of Chicago, 1856.

of their trade.²⁰

There was further provision "to regulate the place and manner of selling pickled and other fish, and inspecting the same."²¹ The Common Council had the authority "to regulate the inspection of flour, meal, pork, beef and other provisions, and salt to be sold in barrels, hogsheads and other packages."²²

Authorization was provided for the Council:

To make, publish, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this State, for the good government and order of the city, and the trade and commerce thereof, as may be necessary or expedient to carry into effect the powers vested in the Common Council, or any officer of said city, by this Act; and enforce observance of all rules, ordinances, by-laws, and police and other regulations, made in pursuance of this Act, by penalties not exceeding one hundred dollars for any offense against the same. The Common Council may also enforce such rules, ordinances, by-laws, and police and other regulations, as aforesaid, by punishment of fine or imprisonment in the county jail, Bridewell, or House of Correction, or both, in the discretion of the Magistrate or Court before which conviction may be made, provided such fine shall not exceed five hundred dollars nor the imprisonment six months.²³

On July 19, 1876, the Council created the office of Com-

20 Ibid., 517.

21 Ibid., 23.

22 Ibid., 24.

23 Laws and Ordinances Governing the City of Chicago, 1866, 32.

missioner of Health.²⁴ In the course of time, the responsibilities for administering and enforcing food inspection in Chicago were delegated to the Board of Health created January 13, 1926 by ordinance of the City Council under provisions of the Cities and Villages Act of the State of Illinois.²⁵ The Board of Health consisted of five members appointed by the Mayor, with the Council's approval. The Board was authorized to:

Make such rules and regulations in relation to the sanitary condition of the city and for the prevention and suppression of disease, not inconsistent with the provisions of this chapter, as it may deem necessary or advisable. Such rules and regulations shall take effect and be in force ten days after publication in the official newspaper of the city except in cases of emergency as hereinafter provided for. In the case of contagious or epidemic disease or of danger from anticipated or impending contagious or epidemic disease, or in case the sanitary condition of the city shall be of such a character as to warrant it, it shall be the duty of the said board of health to make such rules and regulations and to take such measures and to do and to order to be done and cause to be done such acts for the preservation of the public health (though not herein or elsewhere or otherwise authorized) as it may in good faith believe and declare the public safety and health demand, and all such rules and regulations so declared by the said board of health to be emergency rules and regulations shall take effect immediately, but as soon as may be after the promulgation of the same, the said emergency rules and regulations shall also be published, with notice that they are in force in the City of Chicago.²⁶

²⁴ Department of Health of the City of Chicago, Report for the Years 1923-1925, Chicago, 1926, V.

²⁵ Ibid., 7.

²⁶ Ibid., 7.

The Board was given legislative powers and the Commissioner of Health was responsible for the administration.

The Board of Health was reorganized in 1932 to consist of five members, the highest office being that of President. The reorganization provided for the management of personnel in a more modern manner, lightened administrative duties, established lines of responsibility, reduced red tape, decreased waste, and brought about more effective methods and procedures. The staff was divided into two parts, one part composed of four bureaus specifically concerned with services of a medical nature, and the other part composed of four technical bureaus and research work. The latter section included food inspection. Each part was supervised by a "director" responsible to the President of the Board. The Board offices in the City Hall were remodeled to provide facilities that were more comfortable and effective.²⁷

By 1939 the work of the Board of Health had expanded to such an extent that larger quarters were needed. In May of that year, the Board occupied its present location at 54 West Hubbard Street, Chicago.²⁸ Reorganization of the Board of Health in 1942 provided for it to consist of three members, one being the President and one being the Secretary. It is interesting to note here

²⁷ Department of Health of the City of Chicago, Report for the Year 1932, Chicago, 1932, 3.

²⁸ Department of Health of the City of Chicago, Report for the Year 1939, Chicago, 1940, 11.

that on July 2, 1952, the City Council passed a bill to increase the membership of the Board of Health from three to five members.²⁹ On February 13, 1953, the City Council approved a recommendation petitioning the 68th. General Assembly of the State of Illinois to enact a bill amending the Revised Cities and Villages Act to permit municipalities of more than five hundred thousand population to appoint a City Commissioner of Health.³⁰ It was provided in 1942 that the President of the Board of Health be a licensed physician and be in charge of the administration of the Board of Health. The three Board members were to be appointed by the Mayor with the approval of the City Council.³¹

The Board of Health is required to meet at least once a month. The members and all physicians, employees and inspectors so designated by the Board have full police powers and have the authority to arrest or to have arrested any violator of any of the health regulations provided by the Municipal Code of Chicago. In 1942 the Board of Health duties and powers were the following:

- (a) Enforce all the laws of the State and provisions of this code in relation to matters pertaining to the public health and the sanitary condition of the city

²⁹ Chicago City Council, Journal of the Proceedings for July 16, 1952, Chicago, 1952, 2798.

³⁰ Chicago City Council, Journal of the Proceedings for March 11, 1953, Chicago, 1953, 4284.

³¹ Municipal Code of Chicago, Ch. 9.

- (b) Promulgate and enforce all rules and regulations of the board of health or any other State or local authority with power to make rules and regulations concerning the public health
- (c) Cause all nuisances affecting the health of the public to be abated with all reasonable promptness
- (d) Determine when a disease is contagious or epidemic and establish quarantine regulations whenever it is deemed necessary

For the purpose of carrying out the requirements of this code, relating to the public health and the function of the board of health, the board of health or any one authorized to act for it shall be permitted at all times

- (1) To enter into any house, store, stable, or other building, and to cause the floors to be raised if the board or its representative shall deem it necessary, in order to make a thorough examination of cellars, vaults, sinks or drains
- (2) To cause all privies to be cleaned and kept in good condition
- (3) To cause all dead animals or other nauseous or unwholesome things or substances to be buried, removed or disposed of as the board or its representative may direct³²

Provision was made for the Board of Health to make additional rules and regulations including emergency rules and regulations when necessary for sanitary reasons or for the prevention and control of disease. Emergency rules were to become effective immediately, with their publication following as soon afterward as possible in one of the city newspapers notifying of their being in force. Other rules were to become effective ten days after their publication in one of the newspapers.³³ The Board of Health was authorized to give professional advice and information to the

³² *Ibid.*, Ch. 9, Sec. 11.

³³ *Ibid.*, Ch. 9, Sec. 13-14.

Mayor and other city officials upon request. It was further authorized to publish, at its discretion, statistics and information relating to its work, or to the city health conditions, or to methods of disease prevention and cure.³⁴

Budgetary and salary reports indicate that the total amount appropriated for use by the Board of Health in 1952 was \$4,065,808.00. Of this amount \$240,382.00 were appropriated for salaries and wages of the Food Inspection Section with a total personnel numbering fifty-seven. \$236,922.00 were appropriated for similar purposes for the Country and City Dairy Inspection Section with a total personnel numbering fifty-five.

Sums of money are designated to departments and other agencies of the city government and are appropriated from the various funds listed in the Annual Appropriation Ordinance for stated objects and purposes that are part of the necessary expenses and liabilities of the City of Chicago, payable during the fiscal year beginning in January. To facilitate expenditure and accounting control the appropriations are made according to the standard classification of accounts as provided in the Municipal Code of Chicago. The Comptroller and heads of all departments and other agencies of the city government have authority to administer the appropriations in accordance with the standard classifi-

³⁴ Ibid., Ch. 9, Sec. 15, 23.

cation of accounts and with the official manual of the City of Chicago issued by the Department of Finance.³⁵

Food and dairy inspectors now employed by the Chicago Board of Health are secured largely through competitive examinations administered by the Chicago Civil Service Commission. Applicants for positions as food and dairy inspectors may secure application forms to take examinations from the Civil Service Commission. The time during which applications may be filed is fixed by the Commission. Residence in the City of Chicago for at least one year preceeding the date of examination is mandatory in all cases excepting those necessitating technical, professional or scientific knowledge and experience, or unusual manual skill, and in these circumstances the Commission has authority to waive this requirement. Applicants must be at least twenty-one years of age, although the Commission may stipulate maximum or minimum age limits if the service to be rendered demands such action.³⁶

The general range of the examination relates to the subjects to be included, and the weight and rating each subject will have in deciding the general average. A general average of at least 70 per cent is required. Certain preference is provided for

³⁵ City of Chicago, Annual Appropriation Ordinance for the Year 1952, Chicago, 1952, 12.

³⁶ Civil Service Commission, City of Chicago, Fifty-Seventh Annual Report for the Year 1951, Chicago, 1952, 32-33.

applicants who have been in the military service of the United States. The subjects of examinations may include the duties of the position, performance tests, tests of knowledge of laws and ordinances, and other tests, in written and oral form, according to the posted schedules of examinations stating the subjects, other practical tests, and assigned weights.³⁷ There is provision for a probation period of six months. Promotion is gained through competitive examination and consideration of efficiency and seniority ratings.³⁸

The Civil Service Commission classifies Inspectional Service under Class 0 of Branch III. Class 0 is concerned with positions and duties relating to the inspection of premises and conditions. Branch III, Health and Welfare, embraces positions and duties relating to public health work and activities connected with the public welfare program.³⁹ All food inspectors on duty in Chicago in 1951, totaling fifty-two in number, held Civil Service Status.⁴⁰ During 1951 all dairy inspectors and supervising dairy inspectors on duty in Chicago held Civil Service status.⁴¹

37 Ibid., 34.

38 Ibid., 36.

39 Ibid., 30-31.

40 Ibid., 21.

41 Department of Health of the City of Chicago, Report for the Year 1951, Chicago, 1952, 9.

The following performance requirements are necessary to carry out the work of food and dairy inspectors:

- (1) thorough knowledge and understanding of City and State laws and regulations controlling establishments supplying food and dairy products to the public
- (2) knowledge and understanding of the underlying public health reasons for the enactment of such laws and regulations
- (3) knowledge and understanding of the principles of sanitation as they apply to the handling of food and dairy products
- (4) knowledge and understanding of legally acceptable standards for judging the suitability of food and dairy products for human consumption
- (5) knowledge and understanding of the type of equipment used in processing large quantities of food and dairy products for wholesale and retail use in stores and restaurants⁴²
- (6) knowledge and understanding of how to deal with the public, and possession of the qualities of (1) industry, (2) carefulness, (3) tact, (4) thoroughness, (5) honesty, and (6) reliability.⁴³

⁴² Chicago Civil Service Commission (Composite Job Description, 1950.)

⁴³ Ibid., 1934.

Although the announcement for the examination for food inspectors indicates certain qualifications, these qualifications are not required for admission to the examination or necessary for appointment subsequent to passing the competitive examination. An announcement dated January 28, 1949, call number 172, for food inspector examination given August 25, 1949, stated in part: "Note: The applicant must have a degree in Veterinary Medicine from a recognized College or University." Mr. Marvin Bernberg, Classification Officer for the Chicago Civil Service Commission, told the writer of this study that there are no minimum educational qualifications for food inspector examinations and that no one can be barred for lack of educational requirements. Mr. Bernberg said that any person can be admitted to any and all Civil Service examinations, usually, save those requiring State licenses and those exempted under Section 11 of the Civil Service Law.⁴⁴ Section 11 states:

Officers Exempted from Classified Service. Officers who are elected by the people, or who are elected by the city council pursuant to the city charter, or whose appointment is subject to confirmation by the city council, judges and clerks of election, members of any board of education, the superintendent and teachers of schools, the employees of any welfare department, heads of any principal department of the city, members of the law department, police officers above the grade of captain, and one private secretary of the

⁴⁴ Statement of Marvin Bernberg, personal interview.

mayor, shall not be included in such classified service, except that the chief of the police department and the chief of the fire department may be included in the classified service if the city council so provides by ordinance.⁴⁵

In discussing the present typical duties of a food inspector in Chicago, it is important to understand the meaning of the term "food."

The term "food" as used in this section shall be interpreted to mean any article of food, confection, condiment, or drink used for human consumption including raw vegetables and other articles of food which are usually peeled, shelled or cooked after sale and before consumption; provided, that fresh fruit, such as apricots, pears, peaches, plums, cherries, grapes, and fruits of a similar character, shall be classed as food not commonly peeled or cooked before consumption, and dried figs, dates, and raisins shall be classed as foods which are not usually cooked before consumption. Sausage, ham, and boiled, smoked, dried, or pickled meats or fish, unless the same are entirely enclosed by a permanent covering or casing, shall be classed as foods which are required to be protected.⁴⁶

The food inspector's typical duties include the following responsibilities:

(1) inspection of wholesale food establishments, restaurants, retail grocery and meat markets, drug stores, lunch stands, bakeries, beverage plants, meat packing plants, and canneries for compliance with city ordinances and regulations relating to adequate water supply, cleanliness, suitable refrigeration

⁴⁵ Civil Service Commission, City of Chicago, Fifty-Seventh Annual Report for the Year 1951, Chicago, 1952, 25.

⁴⁶ Municipal Code of Chicago, Ch. 95, Sec. 1.

and waste disposal facilities, and adequate rodent and vermin prevention and control

(2) collection of samples of foodstuffs for chemical and bacteriological analysis, and condemnation of food unfit for human consumption

(3) inspection of delivery vehicles for cleanliness

(4) examination of utensils and equipment for presence of rust, corrosion, or matter of a foreign nature; taking of samples of matter found in utensils for laboratory examination; and taking of samples of cleaning solutions to ascertain compliance of formulae

(5) inspection of food for evidence of spoilage; of live poultry for evidence of disease; of oysters for verification of source; of carbonated beverages for cleanliness of containers and for alkalinity; of sausage for excess cereal, water and forbidden preservatives

(6) condemnation on the spot of food unfit for human consumption

(7) preparation and submission of reports to the Board of Health and to the establishments inspected

(8) testifying in court when necessary

(9) performing additional related duties as required.⁴⁷

⁴⁷ Chicago Civil Service Commission (Composite Job Description, 1950.)

The following definitions provide background information for consideration of the typical duties assigned to dairy inspectors:

Dairy or dairy farms. The term "dairy or dairy farm" is hereby defined to mean any place or premises where one or more cows are kept, from which a part or all of the milk or milk products are sold or delivered.

Milk plant. The term "milk plant" is hereby defined to mean any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, bottled, pasteurized, or prepared for distribution.

Milk products. The term "milk products" is hereby defined to mean and include sweet cream, sour cream, vitamin D milk, buttermilk, cultured buttermilk, skimmed-milk, milk beverages, skimmed-milk beverages, and such other products as may, from time to time, be designated by the board of health.

Milk. The word "milk" is hereby defined to be the lacteal secretion obtained by the complete milking of one or more healthy cows, excluding that obtained within fifteen days before and five days after calving, or such longer period as may be necessary to render the milk practically colostrum free; such secretion shall contain not less than eight and one-half per cent of milk solids-not-fat, and not less than three and one-fourth per cent of milk fat.⁴⁸

The duties of dairy inspectors are:

(1) inspection of dairy farms, milk receiving stations, pasteurization plants, butter, cheese, and ice cream processing establishments to ascertain conformance with regulations established by the Board of Health for public health protection

(2) observation for conformance or non-conformance with requirements for sanitary construction and cleanliness of dairy barn, yard, milk house, and toilet; for adequate and safe water

supply; for cleanliness in the milking process and proper cooling of the milk; for condition of cattle feed; for health of employees with special attention to contagious diseases; and for proper construction and cleanliness of vehicles

(3) examining utensils for cleanliness by sight and touch

(4) instructing and educating the producer regarding the public health reasons for regulations in the production of safe and wholesome milk

(5) posting of the inspection report in a conspicuous place on an inside wall, and granting of a time period for correction of any violations

(6) reinspecting to ascertain correction; recommending revocation of permit if corrections have not been made and violations continue; and recommending restoration of permit when compliance occurs

(7) investigating cases of illness and contagious diseases among dairy employees or their families and deciding if regulations require their quarantine and condemnation of the milk supply they have handled

(8) inspecting milk receiving station floors, walls and ceilings for cracks, defects, smoothness, imperviousness; inspecting the station for compliance to health regulations; and checking doors and windows for screens, flaps or fans that are fly repellent

- (9) inspecting station for self-closing doors, lighting, ventilation, toilet facilities, and type of construction of equipment and its repair
- (10) checking on cleanliness of equipment by sight and touch in accordance with testing procedures of the Board of Health
- (11) checking temperature of milk when received at plant and rejecting milk that is over 650 degrees F.; and ascertaining that milk is cooled to fifty degrees within one hour of its arrival at the plant
- (12) inspecting for cleanliness of employees' hands and work clothing, and prohibition of smoking
- (13) collecting of raw milk samples from direct shippers and performing reductase tests under Board of Health procedures
- (14) inspecting pasteurization plants and butter, cheese, and ice cream processing establishments for conformance of the physical aspects to the Board of Health regulations; for personal cleanliness and health of employees; and for all necessary purposes
- (15) preparing and submitting reports to the Board of Health and to the inspected establishments
- (16) testifying in court when necessary
- (17) performing related duties when assigned.⁴⁹

⁴⁹ Chicago Civil Service Commission (Composite Job Description, 1950.)

The food inspection areas to be discussed in detail in this chapter include public markets, foods, food establishments, wholesale itinerant produce dealers, bakeries, cold storage establishments, confectionery manufacturers, ice cream factories, ice manufacturers and dealers, and milk and milk products.

The first major area, public markets inspection, consists of the West Randolph Street Market, the Maxwell Street Market and the South State Street Market. The Municipal Code of Chicago contains ordinances of establishment, supervision, fees, hours, character and condition of produce, location of wagons, cleanliness and penalty for violators regulating these markets. A market master supervises each market and it is his duty to see that the ordinances governing the market and all of its sales be observed. He has the power to arrest or to have arrested any violator or any person who disobeys his lawful directions. The penalty for violations is a fine from three to fifty dollars for each offense.⁵⁰

The major area of food inspection is regulated by ordinances governing the following factors:

protection of foods

inspection of foods

prohibition of impure or adulterated water, drugs, or

⁵⁰ Municipal Code of Chicago, Ch. 35.

food

sale, reporting, and confiscation of unwholesome food
storage of foods
cleanliness of stores and storage rooms
serving of foods
bread making
misrepresentation of foods
report of food poisoning
prohibition of dogs in stores
inspection of meat
purchase or sale of uninspected meat
condition of meat
immature calf, pig, or lamb markets and stables
sale of canned poultry
prohibition of unwholesome meat, fish, and fowl
use of horse flesh for human food
size and quality of vegetables, fruits, and berries
prohibition of unwholesome vegetables and fruits
preserving purity of drinking water
injury of drinking fountain
use of impure water
sanitary requirements for candy establishments
alcoholic coloring or flavoring substance in candy

penalty.⁵¹

The ordinance governing inspection of food requires operators of all establishments where food is kept or stored with the intention of sale to permit authorized Board of Health inspectors or employees to fully and freely inspect, and to answer all reasonable and proper questions such inspectors or employees may ask.⁵² There is further provision for an authorized agent of the Board of Health to enter any premise where perishable articles intended for human consumption are kept and seize, condemn, or destroy any putrid, decayed, poisoned, infected, unsafe, or unwholesome food found there. The agent is empowered to label such food or its containers indicating that it has been condemned. The label must not be removed or altered in any way, and the food or containers must not be removed from the premise without permission of the Board of Health.

The ordinance requires every physician who visits or prescribes for any person ill from, or suspected to be ill from, any food poisoning or infection to report the same to the Board of Health by telephone. The report is also to be sent to the Board in written form giving the name and address of the sick person, the nature of the illness, and the source or probable

51 Ibid., Ch. 95.

52 Ibid., Ch. 95, Sec. 2.

source of the suspected poisoning. The same procedure is required of superintendents if the sick person is cared for in a hospital.⁵³

The ordinance requires the Board of Health to provide an adequate number of meat inspectors to inspect all carcasses or parts of carcasses of cattle, sheep, swine, or goats, and any such meat products that are offered for sale in Chicago. If fit for human food, such meat or products shall be plainly marked or tagged by the inspectors to indicate that they have passed inspection. If unfit, they are to be plainly marked or tagged to indicate that they have been condemned. Meats and meat products Federally inspected may be omitted from City inspection, at the discretion of the Board of Health. The standards, rules, and regulations used by the City meat inspectors shall be those established by the United States Bureau of Animal Industry, or any adopted by the City of Chicago.⁵⁴

The ordinance authorizes the Board of Health to inspect all fruits, vegetables, and berries to be sold in Chicago. Any person who violates any regulations related to such foods shall be arrested and punished.⁵⁵

53 Ibid., Ch. 95, Sec. 12.

54 Ibid., Ch. 95, Sec. 14.

55 Ibid., Ch. 95, Sec. 24.

The ordinance requires every person, officer, board, or department with any power and control over water for human consumption to practice all usual and reasonable measures and precautions to obtain and preserve a pure and wholesome water supply.⁵⁶

The penalty for violations of any of the provisions in this area is fines ranging from ten dollars to two hundred dollars for each offense, unless otherwise specified.⁵⁷

Definitions of certain terms in the major area of food establishments will help explain its meaning and scope. A "retail food establishment" is any building, room, stand, enclosure, place, or establishment occupied and used as a business place by food purveyors and food dispensers to sell or distribute on a retail basis any cooked or uncooked article of food, drink, confection, or condiment used for human consumption.⁵⁸ A "food purveyor" is any operator of a retail food establishment that sells at retail, or delivers to consumers, any cooked or uncooked material used as food for human consumption and not consumed on the premises.⁵⁹ A "food dispenser" is any person who sells and serves

56 Ibid., Ch. 95, Sec. 25.

57 Ibid., Ch. 95, Sec. 30.

58 Ibid., Ch. 130, Sec. 1.

59 Ibid., Ch. 130, Sec. 10.

any food suitable for human consumption, on the premises or adjacent to the premises, to the general public. Included in this category are restaurants, ordinaries, coffee houses, ice cream parlors, lunch rooms, tea rooms, lunch stands, box lunch deliveries, luncheonettes, cafeterias, and retail drug stores serving counter lunches and drinks. The term "retail" means small quantity sales direct to the consumer.⁶⁰ A "wholesale food establishment" is any building, room, stand, enclosure, premises, place, or establishment used for the preparation, manufacture, canning, bottling, packing, distribution, selling at wholesale of any food or drink used for human consumption. This category does not include slaughtering, rendering, or packing establishments, wholesale bakers, manufacturing confectioners, wholesale milk dealers, and other food establishments otherwise defined and licensed by this ordinance.⁶¹ A "wholesale food itinerant vender" is any person who travels from place to place in the City of Chicago selling or delivering from any vehicle at wholesale for resale any food or drink used for human consumption. This category does not include an itinerant vender of wholesale bakery goods, milk or milk products, or produce. The term "wholesale" is defined as sales to the wholesale or retail trade.⁶²

60 Ibid., Ch. 130, Sec. 15.

61 Ibid., Ch. 130, Sec. 33.

62 Ibid., Ch. 130, Sec. 33.

The major area of food establishments provides regulations governing:

definition of retail food establishments

sanitary conditions

sale of unwholesome foods

dangerous polishes

employees

washing and toilet facilities

living on premises

food vehicles

enforcement

definition of food purveyors

application, license and fee

refrigerators

definition of retail food dispensers

application, license and fee

additional privileges

methods of employees

sanitation

kitchen

refrigerators

plumbing

store rooms

cleansing eating and drinking utensils

cleaning silverware and other utensils

protection against dirt and insects
receptacles for garbage
screens
ice-cream
orange drinks
definition of wholesale food establishments and itin-
erant venders
application, license, fee and period
emblems for vehicles
sanitary requirements
inspection
penalty⁶³

This major area further provides that the Board of Health shall have power to enforce the regulations and to make periodic inspections for the purpose of securing samples for analysis, and for ascertaining compliance.⁶⁴ It shall make periodic inspections of all wholesale food establishments and vehicles of wholesale food itinerant venders to secure conformance to the health, safety, and sanitary provisions of the ordinance.⁶⁵

The penalty for violating any of the provisions of this

63 Ibid., Ch. 130.

64 Ibid., Ch. 130, Sec. 9.

65 Ibid., Ch. 130, Sec. 40.

Chapter of the Code is fines ranging from five to two hundred dollars for each offense. After notice of violation, each day of continued failure to comply is considered a separate offense.⁶⁶

Ordinance governing bakeries and bakery vehicles defines a "wholesale bakery" as being a place engaged in the manufacture of bakery goods for bulk delivery to be resold. A "retail bakery" is a place where bakery goods are manufactured for sale to the general public or for use on the premises. Included in the regulations are provisions for:

application, license, fee and period

emblems for vehicles

ventilation, light and sanitation

construction and care of floor, walls and ceilings

plumbing facilities

sleeping on premises

storage of materials

flies, rats, vermin, and animals

diseased employees

clothing of employees

spitting and use of tobacco

sanitary requirements for vehicles

inspection

66 Ibid., Ch. 130, Sec. 41.

revocation of license

penalty⁶⁷

The Board of Health is authorized to make periodic inspections of all bakeries and bakery vehicles. The inspector shall make a written report in the event of violations concerning the operation of these vehicles or the clean and sanitary conditions of transporting or delivering bakery goods. The inspector has the right of entrance at any time to ascertain and secure conformance with prescribed rules and regulations. If continued violations endanger the health of the employees or of the public, the Board of Health can request the Mayor to revoke the license. There is provision for fines ranging from five to one hundred dollars for each offense, with each day of continued failure to comply, constituting a separate offense.⁶⁸

Regulations governing cold storage establishments concern:

definitions

inspection and fee

reports of warehouseman

marking dates of receipt and delivery

storage time limit

extension of time limit

⁶⁷ Ibid., Ch. 107.

⁶⁸ Ibid., Ch. 107, Sec. 21.

transfers to another warehouse
return of food to cold storage
penalty⁶⁹

In this category "food" is interpreted to mean any article used for food by man or animal and the ingredients of such article which have been placed in storage under federal government supervision. Such food does not include nuts, fruits, cheese, vegetables, cured meats, meats being cured, and cooked animal fats. "Cold storage" means the storage of such food in cold storage or refrigerating warehouses or cold storage houses or rooms. "Cold storage", or "refrigerating warehouse", or "cold storage house" is a house or room used for the storage or preservation of food, for thirty days or more, in which cooling is obtained by artificial means.⁷⁰

There is provision for the Board of Health to inspect and supervise all such places in Chicago at least once every three months for cleanliness, sanitation, and compliance with all regulations. Fines for violations range from five to two hundred dollars for each offense.⁷¹

The ordinance concerning confectionery manufacturers

69 Ibid., Ch. 114.

70 Ibid., Ch. 114, Sec. 1.

71 Ibid., Ch. 114, Sec. 2, 10.

relates to:

definition

application, license, fee and period

sanitary requirements

penalty⁷²

A "manufacturing confectioner" is any person who manufactures, for sale to the wholesale or retail trade, any candies, confectionery, sugar ornaments, taffy apples, candied nuts, shelled nuts or peanuts, marzipan, chewing gum, lozenges, cough drops, fruit or flavored tablets, popcorn, popcorn candy, or other similar products.⁷³

The Board of Health is authorized to make periodic inspection of such establishments to determine compliance to the health and sanitary provisions of the law. Fines for violations range from five to two hundred dollars for each offense, with each day of failure to comply constituting a separate offense.⁷⁴

The ordinance governing ice cream factories is concerned with:

definition

application, registration and inspection

72 Ibid., Ch. 115.

73 Ibid., Ch. 115, Sec. 1.

74 Ibid., Ch. 115, Sec. 6, 7.

issuance and duration of certificate
classification and fees
vehicle emblems
sanitary requirements
light, ventilation, and construction
penalty⁷⁵

An "ice cream factory" is any building, room or establishment in Chicago used for manufacturing, making, or mixing ice cream, water ices, frozen puddings, or any other food product made partially from milk and cream, and frozen for sale in the city.⁷⁶

Detailed regulations include requirements that these establishments be kept in a clean and sanitary condition at all times. Employees and their clothing must be clean, and all utensils and equipment must be clean and sanitary. The materials used in the manufacture of the products must be pure and wholesome. Fines for violations range from five to two hundred dollars for each offense, with each day of failure to comply constituting a separate offense.⁷⁷

The ordinance relating to ice manufacturers and dealers concerns:

application, license, fee and period

75 Ibid., Ch. 139.

76 Ibid., Ch. 139, Sec. 1.

77 Ibid., Ch. 139, Sec. 8, 10.

frontage consents

emblems for vehicles

purity of ice

prohibited sources of supply

examination of natural or manufactured ice

ice for cooling purposes

penalty⁷⁸

Regulations require that all ice sold for domestic use in Chicago must be pure and healthful. Chemical and bacteriological examination must indicate that it contains:

not more than fifty bacteria per cubic centimeter growing on a standard agar at thirty-seven degrees centigrade after forty-eight hours; is free of colon bacilli in portions of ten cubic centimeters; and contains not more than nine one-thousandths of one part of free ammonia and nine one-thousandths of one part of albuminoid ammonia in each one hundred thousand parts.⁷⁹

It is authorized that the Board of Health inspect periodically places and vehicles in which ice is gathered, stored, or delivered for sale for domestic use in Chicago. Further provision is made for the Board of Health to establish such reasonable rules as necessary to prevent the distribution for domestic use of impure ice. It is authorized to secure samples as often as necessary for chemical analysis. If such analysis indicates a

78 Ibid., Ch. 140.

79 Ibid., Ch. 140, Sec. 7.

substandard product, the manufacturer must discontinue the sale of ice from which the samples were taken. In case of violations, if no other penalty is specifically provided, the fines range from twenty-five dollars to two hundred dollars for each offense.⁸⁰

The ordinance related to milk and milk products concerns:

definitions

application, license and fee

location of business

change of location

emblems on vehicles

permit to seal

goat or ewe milk

adulterated or misbranded milk

labeling

delivery and receipt of milk

notice for bulk sales

classes of milk

delivery containers

time limit on sales

inspection of dairy farms and milk plants

examination of samples

⁸⁰ Ibid., Ch. 140, Sec. 11.

products shipped from beyond limits
infections and diseases
revocation of license
penalty⁸¹

There is authorization for the Board of Health to inspect at least once during each inspection period all dairy farms and milk plants whose milk or milk products are to be used in Chicago. An "inspection period" is a period of time, not exceeding six months, designated by the Board of Health, in which compliance with its rules and regulations governing milk and milk products must take place. If inspection reveals any violation, a second inspection must be made after a period of time allowed for correction. The second inspection determines compliance, and any violation on two consecutive inspections constitutes cause for immediate revocation of the permit. The original copy of the inspector's report is placed on file in the Board of Health records, and one copy is posted by him in a conspicuous place on one of the inside walls of the dairy farm or milk plant. Such record can be removed only by an agent of the Board of Health. There is provision for a number of samples of milk or milk products from each dairy farm or milk plant to be taken on separate days during each inspection period to be examined by the Board of Health.⁸²

81 Ibid., Ch. 154.

82 Ibid., Ch. 154, Sec. 17.

Examinations are made in accordance with the latest standard methods of the American Public Health Association, the Association of Official Agricultural Chemists, or any other method which the Board of Health approves. The results are given to the producer or distributor as soon as they are ascertained if they fall outside of the prescribed limits. Samples may be secured by the Board of Health any time before the final delivery of milk or milk products. Upon request, samples must be paid for at the market price. Samples of milk and milk products are also examined in stores, restaurants, and other places where they are sold. Proprietors must disclose the name of the distributor of such products upon request by the Board of Health.⁸³

There is provision that milk and milk products from outside the limits of city inspection may not be sold in Chicago unless provisions governing their production and pasteurization are identical with those in this ordinance and are approved by the Board of Health. The Board of Health may confine its inspections within such territorial limits as it considers necessary to guarantee economic and proper supervision and to safeguard public health. It has the power to immediately exclude any infected employee who handles milk or milk products directly or indirectly; to immediately exclude the involved milk supply from distribution

⁸³ *Ibid.*, Ch. 154, Sec. 18.

and use; to require adequate medical and bacteriological tests of the person or his associates; and to use any further measures that may be necessary. Producers or distributors must notify the Board of Health immediately if sickness or any infectious, contagious, or communicable disease occurs on the premises of their dairy farm or milk plant.⁸⁴

For sufficient cause the Mayor may revoke licenses governing the production of milk or milk products. Fines range from five dollars to two hundred dollars for each offense, with each day of violation constituting a separate offense.⁸⁵

The Chicago-Cook County Health Survey indicated that in the period from 1946 to 1949 there were approximately forty thousand food establishments in Chicago that qualified for inspection under the various food laws then in effect. The study was based on inspections conducted in two hundred of seventeen thousand permanent eating and drinking establishments. Out of a possible rating of 100 points, the sanitation rating of these two hundred places of business was only 31.5 points in respect to the Grade A requirements of the United States Public Health Service. One reason for such a low rating was the fact that the Municipal Code, which governs the Chicago Health Department, has requirements

⁸⁴ Ibid., Ch. 154, Sec. 18-20.

⁸⁵ Ibid., Ch. 154, Sec. 21-22.

lower than those of the United States Public Health Service. The major violations were: "cleaning of dishes and utensils, 98 percent; construction of equipment, 87 percent; toilet facilities, 98 percent; cleaning of equipment, 93 percent."⁸⁶

This survey stated that the personnel, consisting of a chief, four supervisors, twenty-five full-time inspectors, and seven part-time inspectors, was completely inadequate to maintain satisfactory food inspection service. Of this total number only thirteen full-time inspectors were assigned part-time to inspect eating and drinking establishments. For purposes of inspection Chicago was divided into thirteen districts, the size determined by the number and distribution of food establishments. The hours of work were 8:30 A.M. to 4:30 P.M. Each inspector telephoned the Health Department daily between 12:30 and 1:00 P.M. for special assignments; and reported to the Department daily at approximately 3:30 P.M. to receive assignments for the next day. The district duties of the inspectors were:

- (1) investigation of reported food poisoning outbreaks
- (2) inspection of establishments applying for licenses
- (3) inspection of establishments about which complaints have been filed
- (4) reinspection of establishments which have been ordered to make corrections
- (5) routine inspection visits.⁸⁷

⁸⁶ United States Public Health Service, The Chicago-Cook County Health Survey, New York, 1949, 258.

⁸⁷ Ibid., 262.

Determining eligibility for licensing and investigating complaints required nearly all of each inspector's time during January, February and March. Approximately fifty applications for licenses and thirteen complaints were received each day during the year. This large amount of priority work made routine inspection of the majority of the other eating and drinking establishments even once a year impossible. At intervals the entire inspection staff was concentrated in the loop and in other large business areas for intensive restaurant clean-up campaigns.

According to the survey, more efforts should be made toward educating restaurant operators as to the public health reasons for the requirements in the city code and toward suggesting methods for overcoming defects. While some instruction had been available, there was a need for establishing facilities for additional educational activities so that food handlers and other interested groups could be informed about the reasons for sanitary handling of food and equipment. On-the-job training for three to five weeks was provided for new inspectors before they were assigned specific duties. Periodic training was available to inform the inspectors about policies, methods, techniques, and interpretations relating to the city food code. The survey concluded that such training needed to be intensified.⁸⁸

⁸⁸ Ibid., 263.

The need for requiring approval of engineering plans so that the construction and type of equipment would facilitate cleaning was discussed. Such approval would also safeguard against the use of equipment that might subject food to conditions rendering it injurious to health.

Although the Health Department was empowered to require food handlers to submit specimens of body discharges or other necessary specimens for laboratory examinations, no routine examination procedure, to be followed by private or official physician, was provided. It was urged that the Chicago Health Department adopt the provisions of the United States Public Health Service Code regarding the health status of food handlers.⁸⁹ Other recommendations for Chicago resulting from this survey were:

(1) Enforcement of the latest edition of the United States Public Health Service Ordinance and Code Regulating Eating and Drinking Establishments

(2) Increasing the number of inspectors

(3) Making every effort, especially by offering adequate compensation, to attract personnel trained in the basic sciences, sanitation, food production and processing, and experienced in public relations

(4) Maintaining a qualified and experienced health edu-

⁸⁹ Ibid., 264.

cator to plan and execute a continuous program to train restaurant operators and employees in sanitary food procedures

(5) Setting up an improved filing system to facilitate reference to food establishments and analysis of improvements and progress of the food sanitation program for the City

(6) Providing adequate clerical personnel to prepare detailed annual reports of the food inspection service

(7) Providing an intensive in-service training program for inspectors, and arranging for specialized sanitation training at recognized public health schools for the supervisory staff

(8) Requesting the Illinois Department of Health and the United States Public Health Service to make periodic evaluations of the restaurant sanitation program

(9) Achieving compliance to regulations through education of and demonstrations to food establishment owners, operators, and employees, taking legal action only as a last recourse⁹⁰

From this detailed consideration of ten major areas of food and dairy inspection, and a brief report from The Chicago-Cook County Health Survey, attention is now called to the most recent report of the Chicago Health Department, its annual report for the year 1951. With regards to food inspection, a total of

⁹⁰ Ibid., 268.

57, 831 inspections and 35, 109 reinspections of eating and drinking establishments and retail and wholesale food and beverage concerns were made in that year. Special attention was focused upon areas in the city where more frequent violations of food regulations usually occur. This action resulted in the temporary closing of 420 establishments until violations were corrected. A survey of 394 large grocery stores, meat markets and large drug stores serving food made it necessary to close one of these concerns for insanitary reasons. Frequent inspection of railroad commissaries and dining cars required the removal from service of only ten cars, while during the previous years fifty-five cars had to be removed. A higher degree of sanitation in the slaughtering and retail sale of live poultry was provided by the new ordinance governing this area. Applications for new poultry establishment licenses were filed by 263 agencies. Plans for alterations to meet compliance with the new requirements were submitted by 228 establishments. Alterations were completed by fifty-nine of such establishments to whose operators licenses were granted.⁹¹

The report on milk inspection indicated that five hundred thousand gallons of milk were delivered daily to Chicago in 1951. Production took place at approximately twenty thousand farms holding permits from the Chicago Board of Health. Prepara-

⁹¹ Chicago Health Department, Annual Report for the Year 1951, Chicago, 1952, 9.

tion for delivery to the city was provided by 119 receiving stations. Seventy-two pasteurizing plants, fourteen of which were outside the city limits, received the milk from a total of four hundred tank and can trucks and six railroad tank cars. The Board of Health supervised every stage of the production and distribution of this tremendous undertaking. During the year 68,844 gallons of milk were condemned.

Permits from 9,139 milk producing farms were temporarily revoked because of conditions that were unsanitary or milk that was below quality. Restoration of 8,488 of these permits took place after satisfactory compliance was secured. Inspection of each milk farm took place at least once during each six-month period even though the personnel was not numerically sufficient for the task. The program of continued in-service training for all dairy personnel is resulting in greater correlation and standardizing of inspectional procedures in Chicago.⁹²

⁹² Ibid.

CHAPTER IV

CONCLUSION

This study in the field of regulatory administration has brought the writer into intimate contact with a subject fascinating and dynamic in historical background, in diversity of development and effectiveness, and in extensiveness of scope. The use of regulatory inspection as an administrative device began in England in 1802 as one means of combating the appalling social conditions resulting from the Industrial Revolution. Effective and far-reaching legislation began in 1833 when England became the first country in the world to establish and finance inspection at the national level.

Inspection practices came into use in the United States in 1828 in New York, but the period of its early development and success was from 1836 to 1866 in Massachusetts. During the years from 1866 to 1913 growth in the inspection process was evident to some degree in most of the other States in this country. Its greatest expansion has taken place since 1913, given impetus by the increasing complexity of social problems created by modern industrial and technological development and urbanized living condi-

tions. Although the average citizen is not properly aware of the service rendered by inspectors, nor properly appreciative of the important role they play, the success of their efforts determines to a large extent the effectiveness of the State and local public health and welfare programs.

As a result of this study it can be concluded that the following eight factors determine the success of local, State and Federal inspection programs:

(1) Organization of the agency responsible for inspection. There are indications that such an agency should always maintain a dynamic and progressive approach to its purposes and functions. Organizational structure, management policies, selection and assignment of qualified personnel, and continued in-service training are some of the important factors in accomplishing this goal.

(2) Number of inspectors and frequency of inspections. At the present time there seems to be a general need for increasing the number of inspectors in order to provide a staff numerically adequate to perform efficiently, effectively and with professional interest. Such a staff could maintain a desirable minimum standard for frequency established by the agency charged with inspection. This standard would be based on such factors as frequency for assuring compliance, for controlling suspected violators, for safety inspection in dangerous occupations, and for health and accident investigations.

(3) Provision for inspectors to interpret their duties.

The agency responsible for inspection should maintain through a manual of instructions, in-service training, and conferences clearly defined provision for administrative interpretation of its powers and duties as well as those of its inspectors. These powers and duties are prescribed by State or municipal laws, so it is of utmost importance that inspectors have a thorough knowledge and understanding of them. Their execution is determined to a large extent by agency ruling and regulations. These rulings and regulations should enable the inspectors to carry out their duties with common sense and good will. If they succeed they will be valuable salesmen of ways and means of protecting the safety, health, and general welfare of the public. With knowledge of the laws governing inspection, and understanding of the public health reasons for their enactment, the inspectors can interpret and explain them to employers and employees. They can also contribute to the general education of the public concerning this important service. Such a program carries out the professional philosophy of inspection service which aims to secure compliance through education and cooperation rather than through judicial force.

(4) The inspection field as a career service. Because the inspection field is fast approaching the status of a service for newcomers to government employment, its program is being given new impetus. It is possible for the program's future success to be influenced by the vision, ambition, and determination of

younger personnel members who become interested in it as a career. The field of government is being challenged today, as never before, to offer the public returns of service characterized by dedication, loyalty, and quality.

(5) Adequate interest and support of local courts.

There have been many instances of cases dismissed, sentences suspended, or unlimited adjournments where local magistrates were reluctant to take positive action or to insist on rigid adherence to regulatory laws. Court proceedings are costly in terms of time, effort and expense. For this reason, as well as for preference toward making every effort to secure compliance through educational and cooperative means, inspectors resort to court proceeding as infrequently as possible. When they do seek court prosecution, the degree of interest and support which they receive from the officials plays an important part in determining the success of their efforts toward prevention of regulatory violations.

(6) Effectiveness of administrative coordination between departments and agencies conducting related services. The following are some of the desirable outcomes that can be obtained through such coordination:

Obtaining assistance in conducting in-service
training programs

Becoming acquainted with State and local authorities
and agencies engaged in similar work

Eliminating some duplication of services

Maintaining enthusiasm and morale through examining
and discussing common problems

Utilizing all available facilities when working on
common problems

Improving public relations.

(7) Need for safeguarding public health and welfare.

This study has indicated the great diversification and complexity of the activities that are regulated by law. This situation has resulted from the complicated industrialized and urbanized aspects of modern living, and the tremendous strides in the progress of science and medicine. These aspects in turn have made safeguarding public health and welfare too specialized and too technical for general law enforcers. This task is one that the inspection service is accomplishing with creditable success.

(8) Authority of the enforcing agency. The agency charged with inspection usually has full police powers, power to enforce all rules and regulations that govern its activities, and power to make and enforce any new rules and regulations that become necessary in protecting public health and safety.

In summarizing food inspection in Chicago some conclusions about the Chicago Board of Health, the enforcing agency, stand out. The Board of Health is not subject to any authority of the United States government, except under emergency circumstances when the Federal government may require its cooperation.

The entire authority of the City of Chicago, including the Board of Health, is subject to the State of Illinois. The State of Illinois has established a State Department of Health and has enacted legislation administered by this department which is binding upon and enforced by local governments. It has further given the City of Chicago power to establish a Board of Health to promote health and suppress disease. The Chicago Board of Health derives its powers from statutes of the State of Illinois and from powers granted by the Chicago City Council under the authority of the State of Illinois. There is a Cook County Board of Health but it has no authority over the Chicago Board of Health and administers no activities within the city. A relationship of minimum cooperation exists between the two agencies.

The Chicago Board of Health has experienced a turbulent history which caused it to operate intermittently instead of continuously over the years since it was established. In spite of many serious obstacles, it has achieved great success as evidenced in the following statement from a Report on Chicago Health Department by Strodel and Associates:

The recognition given to Public Health in Chicago is a monument to the countless persons of talent, skill, experience, and devotion to the cause of Health, who are spending the greater part of their lives in the service of the Chicago Health Department, and to those who have come and gone over the years. The Public Health record of Chicago stands high among the cities of the world. In some respects, the

record goes back more than fifty years.¹

However, the Strodel "Report" recommended complete reorganization of the Chicago Health Department to bring about improvement of organization structure and management practices. It was concluded that the Department is tied to concepts suitable for the past, but no longer adequate to meet present public health problems and responsibilities.

Another conclusion was that the Board of Health has long been considered a "one man" affair, with the office of President being a position filled by the Mayor, requiring no particular qualifications and no particular term limitation. Personnel has been considered to be of Civil Service status but this "Report" found that 32 per cent of the employees in March, 1952, were on temporary status. Instead of the concept of "one man" there needs to be a concept of "one organization." This would benefit the 1,096 employees of the Board of Health, heighten its place and function in the City Government, and enable it to provide the service the citizens expect it to render.

The Strodel "Report" criticized the Health Department's annual report for the year 1951. The last published annual report had been released in 1940. After a ten year period when no annual reports were issued, the 1951 publication contained only a

1 Strodel and Associates, Business Management Consultants, Report on Chicago Health Department, Illinois, 1952, 1-01.

six page summary of the activities of the Health Department. An account of a fourteen year "Neonatal" study comprised the remaining 275 pages of the report.

While all of the conclusions in the Strodel "Report" cannot be included in this study, the one about improving the Division of Environmental Sanitation merits comment. It was recommended that this Division be reorganized under a chief sanitary officer, and include the following sections:

- (1) Wholesale Food and Beverage Processors
- (2) Retail Food and Beverage Vendors
- (3) City Dairy Inspection
- (4) Country Dairy Inspection
- (5) Barber and Beauty Shop Inspection
- (6) Undertaker Inspection
- (7) Rat and Insect Control
- (8) Public Health Engineering
- (9) Water and Sewage Health
- (10) Housing and Plumbing Health
- (11) Industrial Health Sanitation
- (12) Community Sanitation²

Out of the writer's experience has come an awareness of the need for the Board of Health to maintain a Public Relations

² Strodel and Associates, Report on Chicago Health Department.

Office that is sympathetic towards cooperating with and informing the public about this organization. The writer often found it necessary to rely on general information about the Board of Health as a whole, as the enforcing agency, rather than on specific information related to food inspection directly which could not be secured.

It can be concluded that regardless of wealth, influence, and position all citizens are governed, controlled and regulated to some extent. One of the major factors upon which human progress depends is effective socialization of economic life. The inspection process can contribute to this goal by replacing power and privilege with the interests and needs of public welfare. Today citizens are better informed and more discerning in their judgment of public officials than ever before. As a result, there is a definite need for the growing philosophy that public service is an opportunity and a challenge toward quality in government service.

It was with the fundamental belief that the administrative elements of food inspection comprise a field rich in fruitful investigation that this study was undertaken. In spite of its antiquity, the inspection process has not had a systematic and unified development. Therefore, its continued growth and development may result in its becoming more acceptable and effective in getting people to act in accord with constructive social policy.

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