

Course 154

The fundamental idea at the base of governmental action for the preservation of the public health is that of nuisance. The powers which have been gradually placed in the hands of health officials are based upon court decisions. These decisions have established the right of the government to regulate the conduct of its citizens in such a way that their acts or omissions do not materially or unreasonably injure other citizens.

Sanitary powers are extraordinary and sweeping in character but must be justified and reasonable.

- (1) Arbitrary and summary power to deprive persons of liberty and property.
- (2) Check wholly or partly commercial operations.
- (3) Disturb civic life to any extent deemed necessary.

1. Sources of Power

- a. State. The sovereign power of the State as expressed through the legislature delegates sanitary functions to certain boards or individuals. The State reserves to itself any powers not delegated to local communities or to the Federal government.
- b. Local. Authority commonly vested in a local board of health or governing body. Frequently in cities through charter.
- c. Federal. Only such powers as have been granted by State to central government.

2. Application of Powers

These powers are applied through:

- a. State Statutes establishing state and local boards of health and special acts such as pure milk acts or laws for physical inspection of school children.
- b. Local Ordinances. These are made by local boards or council to make effective police powers to meet local condition.

3. Organization

The organization of the various official health agencies are based upon statutes or charter provisions creating them.

- a. Board - method of appointment, composition, term.
- b. Personnel - powers of appointment, qualifications, tenure
- c. Finances - legal method of securing funds.
- d. Powers - extent and character of powers.

References: Hemenway, H. B.--Legal Principles of Public Health Administration
Goodnow--Constitutional Foundations of Public Health
(U.S. Public Health Reports, Oct. 3, 1919, or Reprint 559)
Overton & Denno--The Health Officer, Chap. 1