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TERMS: \$15 to insure live-colt. Mares at owner's risk.

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For terms apply to  
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## Sour Stomach

No appetite, loss of strength, nervousness, headache, constipation, bad breath, general debility, sour risings, and catarrh of the stomach are all due to indigestion and halt at stomach. This new discovery represents the natural juices of digestion as they exist in a healthy stomach, combined with the greatest known tonic and reconstructive properties. Kodol for dyspepsia does not only relieve indigestion and dyspepsia, but this famous remedy helps all stomach troubles by cleansing, purifying, sweetening and strengthening the mucous membranes lining the stomach.

Mr. S. S. Ball, of Riverwood, W. Va., says: "I was troubled with sour stomach for twenty years. Kodol cured me and we are now using it in milk for baby."

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**DEWITT'S KIDNEY AND BLADDER PILLS—Sole and Sale**  
Prepared by E. C. DeWitt & Co., Chicago

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## Pure Food Laws.

Continued from page 1.

rations or products intended for use of man or domestic animals for either external or internal use or for cosmetic purposes or for inhalation or perfumes.

[p] In the state law, cocaine and alpha and beta eucaine are not included in the list of habit forming drugs where the name and quantity or proportion of such drugs must be placed on the label. But cocaine and alpha and beta eucaine are included in a general state law that limits their dispensing and sale to a physician's prescription, which makes the law as to cocaine and eucaine more restrictive than the national law. Too much care cannot be taken in the use and sale of habit forming drugs and certainly the purchaser has the right to know, outside of a physician's prescription that he is purchasing such narcotic drugs.

[q] There are some slight differences as to labels, otherwise, the state drug law is substantially the same as the provisions of the national law.

**POLICE POWER.**

The enactment and enforcement of pure food laws by a state come under what are known as the general police power of a state. This power is broad and general in its scope.

Blackstone defines police power and economy to be:—"The due regulation and domestic order of the kingdom whereby the individuals of the state, like members of a well governed family, are bound to conform to the general behavior to the rules of propriety, good neighborhood and good manners, and to be decent, industrious and inoffensive in their respective stations."

No full and complete definition of police power has been given. The courts have preferred to determine whether a particular case comes within the general scope of the power than to undertake to give an abstract definition of the power itself that would be applicable to every case that might arise.

The police power means the general power of the state to promote and preserve the public welfare and is a power that belongs to and is wielded almost exclusively by the state.

"The police power of a state extends to the protection of the lives, limbs, health, comfort and quiet of all persons, and to the protection of all property within the state, and hence to making of all regulations promotive of domestic order, morals, health and safety."

**RAILROAD CO. VS. HUSEN, 95 U. S. 465.**

The legislature may pass any measure that appears to be necessary for the preservation of the public health or the promotion of the public welfare, subject to the provisions of the federal or state constitutions, and the further limitation established by the courts that the exercise of the police power by the legislature must be reasonable.

The question of reasonableness usually resolves itself in this: Is the regulation carried to the point where it becomes prohibitive, destructive or confiscatory?

**FRIEND ON POLICE POWER.**

"Almost every police regulation effects to a greater or less extent some property right, but these rights are subject to such reasonable regulations as the legislature may deem necessary or expedient. State vs. Schenker, 112 Ia. 642.

**COMMONWEALTH CLAUSE.**

The principal check on the police powers of a state is the provision in the federal constitution giving congress power "to regulate commerce with foreign nations and among the several states," known as the commerce clause.

The difficulty is in drawing the line where the commercial power of congress ends and the power of the state begins.

Commerce is the interchange or mutual change of goods or provisions or property of any kind between nations or individuals. Commerce is more than traffic, it is intercourse. The power of congress to regulate is exclusive whenever the subjects of it are national in character or admit of only one uniform system or plan of regulation. The power to regulate includes all the forms and instruments by which commerce may be conducted. Interstate commerce applies only to the subjects which are property and lawful articles of commerce. If an article is recognized by the commercial world, by the laws of commerce and by the decisions of the courts as a commodity, it cannot be excluded by a state as not a lawful subject of commerce; to this extent, the state cannot fix its own standards against the general opinion of the commercial world that will govern interstate commerce.

In Leisy vs. Hardin, 135 U. S. 100, the supreme court held that the citizens of one state had the right to import beer into another state contrary to its statutes, and the right to sell it there in the original packages, and the commerce between states has been confined exclusively to congress by the constitution and is not within the jurisdiction of the police powers of a state unless placed there by congressional action.

Soon after the decision of Leisy vs. Hardin was rendered, congress passed the act of August 8th, 1890, known as the Wilson bill, placing intoxicating liquors transported into a state, upon arrival there, under the operation and effect of the laws of such state enacted in the exercise of its police powers, to the same extent as if produced in such state and not exempt by reason of being introduced in original packages or otherwise.

The supreme court later, in Rhodes vs. Iowa, 170 U. S. 412, held that the term "arrival" in this act meant delivery to the consignee and that the power of the state did not attach until the actual delivery of the interstate shipment to the consignee.

In Schollenberger vs. Pennsylv.

171 U. S. 1, it was held that oleomargarine being a well known article of food is a proper subject of interstate commerce and that its sale in original packages is valid.

Congress has since passed the act of May, 9th, 1902, relinquishing its powers to the state as to oleomargarine, similar to the provisions of the Wilson bill as to intoxicating liquors.

Congress alone can act as to admissions of goods from one state to another, and a failure to act indicates that commerce must be free, the right to import an article includes the right to sell, but in cases of original packages, only one sale is permissible after the goods enter a state as the act of sale places the goods in the common mass of property in the state and is then exclusively under state control, and likewise the act of breaking the package places the goods in the common mass of property in the state.

There is no statutory definition of original packages, but the courts have construed it to mean the box or case or bundle in which the goods were shipped and not the package in which they were placed by the manufacturer before they were placed in the larger box or container for shipment. As defined in McGregor vs. Cone, 104 Iowa 473, "The original package is that package which is delivered by the importer to the carrier at the initial point of shipment in the exact condition in which it was shipped.

The fourteenth amendment is sometimes invoked as a restraint to the police powers of a state under the provision prohibiting any state to "deprive any person of life, liberty or property without due process of law," and to deny any person within its jurisdiction the equal protection of the laws."

In the Slaughter House Cases 16 Wall 36, it was held that the chief application of the clause "due process of law" was as to the negro. This view has been modified and extended by subsequent decisions. But in those cases where the public health and safety are involved, the supreme court has uniformly held that the inhibition of the fourteenth amendment do not limit and were not designed to limit the subjects upon which the police powers may be exercised.

State vs. Mugler 123 U. S. 623.  
Powell vs. Pennsylvania 127 U. S. 678.  
Austin vs. Tennessee 179 U. S. 343.

It is fundamental that the fourteenth amendment does not impose any restraint on the exercise of the police powers of the state for the protection of the safety, health or morals of the community.

State vs. Schenker 112 Iowa 642.

In Powell vs. Pennsylvania, 127 U. S. 678, a Pennsylvania statute prohibiting the manufacture or sale of imitation butter or cheese within the state, was decided valid and not repugnant to the clause of the fourteenth amendment as "to equal protection of the laws."

While in Schollenberger vs. Pennsylvania 171 U. S. 1, the same statute, tested under the commercial clause, was held invalid to the extent that it prohibited the introduction and sale of oleomargarine from another state in original packages.

**LEGISLATIVE POWERS.**

It is within the constitutional power of the legislature to establish regulations for prevention of fraud in the sale of articles of food, it is generally for the legislature to determine what regulations are needed for that purpose. Cooley on Constitutional Limitations 168.

The state has the right to regulate or prohibit the sale of such articles of food as the legislative junction of government shall, in its wisdom, deem necessary to regulate or prohibit. Powell vs. Pennsylvania, 127 U. S. 678.

While a state may not have power to totally exclude an article of interstate commerce, it may so regulate the introduction of an imported article as to insure purity. Schollenberger vs. Pennsylvania, 175, U. S. 1.

A statute requiring the labeling of lard substitutes and compounds so as to show the nature and ingredients of the article offered for sale, was declared a valid exercise of the police power. State vs. Aslesen, 50 Minn. 5. State vs. Snow, 81 Iowa 642.

The legislature has the undoubted power to fix positive standards to prevent fraud or evasion and difficult controversies as to facts provided they are reasonable in their purpose and application.

The legislature may fix an arbitrary standard and declare that all milk falling below the standard is impure or adulterated. State vs. Campbell, 64 N. H. 402.

The sale of milk adulterated with water though water be of the purest quality, may be prohibited. State vs. Graves, 15 R. I. 208. People vs. West 106 N. Y. 203.

The police powers of a state extend to prohibition of the sale of articles imitative of food substances though they are not injurious to health. Powell vs. Pennsylvania, 127 U. S. 678. Walker vs. Pennsylvania, 127 U. S. 68. State vs. Snow, 81 Iowa 641.

It belongs to the legislature to exercise the police power of a state subject to the power of the courts to decide the constitutionality of any particular law.

The unconstitutionality of a state enactment under the police power should be plainly apparent for a court to interpose its authority as well stated by Judge Harlan in Plumley vs. Massachusetts 155 U. S. 461. "The judiciary of the United States should not strike down a legislative enactment of a state, especially if it has direct connection of the social order, the health and the morals of its people unless such legislation plainly and palpably violates some rights granted under the national constitution or encroaches upon the authority delegated to the United States for attainment of

objects of national concern."

**INTENT.**

The element of intent has generally been eliminated from the offenses prescribed in pure food laws. The dealer is held responsible for the purity and wholesome condition of the foods he may sell, and it is no defense that he was ignorant of their being adulterated unless intent is made an element of the offense.

The seller must take upon himself the right of knowing that the article of food he offers for sale is not adulterated. State vs. Smith 10 Rhode Island 230.

One who does a thing forbidden by statute is liable to the punishment imposed by it though in doing the act he has no evil intent, unless the statute makes intent an element of the crime. State vs. Zeichfeld 23 Nev. 304. Haggerty vs. St. Louis Ice Co. 143 Mo. 238.

Under an Ohio statute prohibiting the sale of an adulterated article of food, it was held not essential to prove that the accused had knowledge of such adulteration. State vs. Kelley 51 Ohio 1063, in which case the court says, "If the statute had imposed upon the state the burden of proving knowledge of adulteration it would therefore have defeated its declared purpose."

In Michigan it was held under a similar statute "that proof of a guilty knowledge or intent is not essential to conviction." People vs. Snowberger 113 Mich. 86.

The supreme court of Wisconsin holds, "When a statute does not manifest an element of offense but commands an act to be done or omitted, with a culpability, ignorance of the fact or state of things does not excuse the violation." State vs. Hatwell 21 Wis. 60.

Under a Massachusetts statute one may be convicted of selling adulterated milk although he did not know it to be adulterated. Commonwealth vs. Ferren 9 Allen 10. Commonwealth vs. Smith 103 Mass. 444.

In case of State vs. Schenker 112 Iowa 642, Judge Deemer, delivering the opinion says: "It is not enough to show that the defendant did not intend to defraud, or that the milk he sold was wholesome. If it was not almost any law intended to protect the public health and safety might be overthrown. It is enough that adulterations such as prescribed by statute, may be defrauded or prove deleterious to the public health or comfort. The legislature may well determine that the adulteration of milk tends to facilitate vicious practices and it ought to be prohibited. To defeat the act prohibiting such conduct, it is not enough to show that in the particular case the article sold was innocuous. Criminal intent is not an essential element of the offense described in the statute and need not be shown in order to justify conviction."

It is generally conceded that ignorance and carelessness in the sale of food stuffs is a menace to health and ought to be restricted by proper penalties. And that the legislature has the power to eliminate from the offense the element of intent and thus greatly increase the efficacy of the law.

**GUARANTY.**

There is a provision in the national food and drug act, "that no dealer shall be prosecuted under the provisions of the act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the United States, from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of the act, designating it. Such guaranty to afford protection shall contain all the names and addresses of the party or parties making the same, and in such case said party or parties, shall be amenable to the prosecutions, fines or other penalties which would attach in due course to the dealer under this act."

The question arises as to the constitutionality of incorporating such a provision in a state law.

A state has no jurisdiction over non residents so that if a general guaranty clause was included in a state law providing for the guaranty to be signed by a wholesaler, jobber or manufacturer either in the state or without the state there could be no way for enforcing the guaranty as to those residing within the state, and a provision limiting the guaranty to the manufacturer or jobber residing in the state would appear to be clearly unconstitutional.

A statute which discriminates in favor of the products of our own state by permitting the sale of them on terms more favorable than are granted for sale of similar articles produced in other states is plainly unconstitutional under the decisions of the supreme court of the United States. Welton vs. Missouri, 91 U. S. 123. Hannibal R. R. Co. vs. Huesen, 95 U. S. 465. Tiernan vs. Rinker, 102 U. S. 123.

Any local regulations which in terms or by its necessary operation, denies to owners of articles of commerce in other states the right to compete in the market of the state upon terms of equality with the owners of like articles within the state, is when applied to the people and products or industries of other states a direct burden upon commerce among the states and therefore void. Brimmer vs. Rebman 138 U. S. 82. Voigt vs. Wright, 141 U. S. 63.

Where compliance with the requirements of the statute is impossible to the non resident dealer and its enforcement against him would operate as a practical prohibition of his business, particularly if the regulation is not impossible of performance to the resident, who is engaged in the same business, the regulation will be declared to be an unconstitutional interference with

interstate commerce. Minnesota vs. Barger, 136 U. S. 313.

The purpose of the commerce clause of the constitution is to prevent discrimination in favor of local products. Kehlor vs. Stewart (Ga.) 14 S. E. 854.

"All persons other than resident manufacturers or their agents, selling articles manufactured in the state, shall pay the specific license tax imposed by this section" held, a clear case of discrimination in favor of home manufacturers and against the manufacturers of other states. Webber vs. Virginia, 103 U. S. 344.

In the exercise of its police powers, a state may exclude from its territory or prohibit the sale therein of any articles, which in its judgment fairly exercised, are prejudicial to the health or which would injure the lives or property of its people. But if the state under the guise of exercising its police powers, should make such exclusion or prohibition applicable solely to articles of that kind that may be produced or manufactured in other states, the court would find no difficulty in holding such legislation to be in conflict with the constitution of the United States. Guy vs. Baltimore, 100 U. S. 434.

So that a guaranty clause in a state law either general or limited, would probably be declared to be unconstitutional.

The Iowa law only imposes a money fine on the offender. From the nature of things the retailer is the person upon whom the punishment must primarily rest. The restrictions in a state law apply almost solely to the retailer. He may be advised by the manufacturer or jobber that the goods he sells will comply with the state law, and he may have no intent to violate the law in any particular, and in such a case it seems a hardship to bring his violation to the attention of a court. But as the punishment is only a money fine, he can, without the aid of a statutory provision, if a person of prudence, fully protect himself in the due and ordinary course of business, by requiring before purchasing and receiving goods, a guaranty from the manufacturer or jobber, that the goods purchased, comply in all respects to the law and stimulating therein to hold him harmless for any penalties imposed, or costs incurred for the violations in the sale or keeping with intent to sell such goods. This requirement in the course of trade is generally exacted by the retailer of the wholesaler, and the wholesaler of the manufacturer. So that the fine and costs in course of business eventually falls upon the manufacturer or packer who alone is in position to know that his products comply with the law.

**COLORING.**

On the grounds of protection of health and the prevention of fraud, coloring of certain articles of food is prohibited. In numerous statutes coal tar and other poisonous colors are prohibited in confectionery and other food products as a menace to health.

Some twenty-three states have laws prohibiting the adding of artificial coloring matter to vinegar. In New York a law prohibiting the coloring of vinegar even with artificial coloring not injurious in any way to health was sustained. 145 New York People vs. Girard.

The statutes of New Hampshire and West Virginia requiring oleomargarine to be colored pink, so as to make deception impossible, was upheld. State vs. Marshall, 64 New Hampshire 549. State vs. Meyer, 42 West Virginia 822.

The supreme court of the United States decided that the New Hampshire statute was void so far as it interfered with interstate commerce on the ground that to require an added foreign substance to an article of food where it is rendered unsalable, is in reality not regulation but prohibition. Collins vs. New Hampshire, 171 U. S. 30.

The supreme court of the United States held a Massachusetts statute prohibiting the coloring of oleomargarine in semblance of yellow butter, valid, as a legitimate police regulation although affecting interstate commerce. Plumley vs. Massachusetts, 155 U. S. 461.

The coloring of oleomargarine with annatto, a harmless color, under a New Jersey statute, was declared a valid prohibition. State vs. Newton, 50 N. J. 534.

A statute of Iowa absolutely prohibiting the sale of imitation butter bearing the yellow color of butter made from pure milk or cream was held valid. State vs. Packing Co., 124 Iowa 323.

**TRADE FORMULAS.**

Both the state and national laws have this provision: Nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods, which contain no wholesome added ingredient, to disclose their trade formulas except so far as the provisions of this act may require freedom from adulterations or misbrandings.

There are some things about trade formulas that ought not to be too greatly guarded. The public certainly has the right to know whether there are any deleterious or poisonous substances in any compound or mixture used as food.

The Minnesota supreme court has gone so far as to say, "That no man has the right to keep secret the composition of a substance which he sells as an article of food." State vs. Aleson, 50 Minn. 5.

Under the Iowa law as well as the laws of some other states, the officers charged with the enforcement are authorized to procure samples of food products shipped into the state or offered for sale in the state, for examination chemically and microscopically or otherwise and to issue printed bulletins of such examinations and analyses, which bulletins are furnished the newspapers of the state and otherwise generally distributed. A man-

ufacturer, jobber or dealer, residing outside the state is not amenable to the direct enforcement of a state law, for goods shipped into a state under the commerce clause. So that the only power that a state can invoke is the indirect one of publicity. Prior to the enactment of the national law this was the only means that adulterated articles of food shipped into the state by non resident manufacturers or dealers could be even indirectly reached and the public made aware of the adulterations and impurities in such food stuffs.

Publicity, while an indirect remedy, is a powerful force. A purchaser desires to know what he is purchasing and will hesitate to purchase unwholesome or adulterated articles if advised of their true character.

Many practices cannot stand the light of publicity, and this is often a stronger force than positive regulation and restraint, in bringing about the desired standards of conduct and acquiescence in the requirements of the law.

The provisions of the state pure food law has been extended so as to include the adulterations and misbrandings of paints, oils and agricultural seeds.

There are no more important measures affecting all the people than those pertaining to protection of the public health and the prevention of imposition and fraud in the manufacture and sale of food products. There has been great advancement in this field of legislation in recent years. The national food and drug act and the meat inspection act and the late enactments in many states meet the universal public demand for good and efficient pure food laws; and which are being generally observed by the manufacturers and dealers in legitimate and wholesome goods.

**Some Expensive Fish.**

Hampton Recorder: There is some thing doing in town, and all on account of the presence here of A. M. Green, of Sioux City, deputy fish commissioner. At his instance, Sheriff Jernegan was ordered to Oakland township and arrested Bert and Albert Owen and one other man, whose name we failed to get charged with fishing in the Iowa river with a seine. The parties paid the fine, which, with costs included, amounted to the snug little sum of \$85 each. Jesse Stewart, also arrested on the same charge, plead not guilty and is to have a hearing before Squire Coldren this afternoon. The fish law is as savage as a meat axe when it once gets hold, and if there are any violators of the fish or game laws in this vicinity they should take warning and "stand from under." When Mr. Stewart's case was called this afternoon, he decided to plead guilty and his fine and costs amounted to \$99.50 besides fees for his own witnesses summoned from Popejoy.

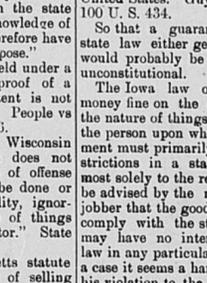
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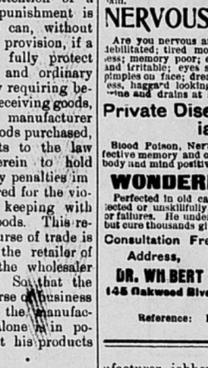
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