

PURE FOOD AND DRUG LEGISLATION STARTED IN THE UNITED STATES ONE HUNDRED YEARS AGO.*

EARLY EFFORTS MADE IN ENGLAND, TO CONTROL THE PURITY OF FOODS AND DRUGS, BY SEPARATE MEASURES.

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Food and drug legislation means legislation that simultaneously covers in the same measure both foods and drugs. It does not mean legislation that covers foods in general, or a special food, such as the chocolate branding law of Massachusetts, 1803, or the adulteration of liquors with drugs in Illinois, in 1845, or the Federal Drug Import Law, of 1848. It does have a semblance to our import tariff laws, that include both foods and drugs and a host of other commodities. The prime purpose of such laws is revenue, but purity is often an important factor. For example as early as 1790, different rates of duty were imposed on sugar, depending on its degree of refinement.

The general view prevails that the United States and the several states in the union, followed in the footsteps of England in the matter of pure foods and drugs; but this view is erroneous. As early as the 13th century, England, by statute, endeavored to protect its citizens against the dishonest dealings of bakers, brewers, butchers, vintners and others. This is considered the first public act, directing attention to food adulteration and its control. It seems to have been well enforced for several centuries.

In the 16th century the College of Physicians was empowered to examine, govern, correct and punish all physicians, apothecaries, druggists, distillers and manufacturers of medicinal chemicals, for indiscretions. The College of Physicians, in the 17th century, published the first pharmacopœia of England, which provided some drug standards for physicians, apothecaries and others. In the 18th century, the Apothecary's Company was empowered to visit apothecary shops in London and destroy such drugs as were found unfit for use.

The above gives a good idea as to the methods employed in England for regulating dishonesty in merchandising foods and drugs, over a period of several centuries. What may be considered the modern movement for controlling these unfair practices in England started with the law of 1860, regulating the sale of adulterated articles of food and drink. This followed in the wake of hearings of a Select Committee of Parliament, during which the wholesale adulterations found by the intrepid Dr. A. H. Hassall, played a prominent part. This act was amended in 1868 to include medicines. This is considered the first statute of England that covers both foods and drugs.

EARLY FOOD AND DRUG LAWS IN THE UNITED STATES.

Problems arise in the individual states that require special attention by such states. Some states, as a natural course of events, had a longer experience in self government and protection than others. Some states profited by the experience

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of their sister states. Individual initiative is often a potent factor. Progressive thinkers and actors, in some states, wielded a greater influence than others and such states naturally forged ahead more rapidly in various lines. On the above basis one would naturally conclude that the states which took part in the Revolution, would be in the forefront, in the matter of health protection. This is in a measure correct, but other states soon came into line.

MASSACHUSETTS AND MICHIGAN IN THE LEAD.

Massachusetts in 1835, Revised Statutes, page 742 (1836), under the heading "Offenses against the Public Health," passed the following law:

"Section 1. If any person shall knowingly sell any kind of diseased meat, corrupted or unwholesome provisions, whether for meat or drink, without making the same known to the buyer, he shall be punished by imprisonment in the county jail, not more than six months, or by fine not exceeding two hundred dollars.

"Section 2. If any person shall fraudulently adulterate, for the purpose of sale, any substance intended for food, or any wine, spirits, or malt liquor or other liquor, intended for drinking, with any substance injurious to health, he shall be punished by imprisonment in the county jail, not more than one year, or by fine not exceeding three hundred dollars, and the articles so adulterated shall be forfeited and destroyed.

"Section 3. If any person shall fraudulently adulterate, for the purpose of sale, any drug or medicine, in such manner as to render the same injurious to health, he shall be punished by imprisonment in the county jail, not more than one year, or by fine not exceeding four hundred dollars, and such adulterated drugs and medicines shall be forfeited and destroyed."

The first section contains the "Knowing" element and Sections two and three penalizes only adulterations injurious to health. Frauds on the purse have a free hand.

Michigan in 1838, Rev. Stat., page 649, enacted the same law as that of Massachusetts, under the same heading. No special provisions seem to have been made in either state for the enforcement of the above law, and little appears of record as to its early enforcement.

THE HAWAIIAN FOOD AND DRUG LAW, PENAL CODE, PAGE 52 (1850), INCLUDES THE PHRASE "FOR MEN OR ANIMALS."

The Hawaiian Islands were not a part of the United States, when this law was passed, but because of the inclusion of the phrase, "Men and Animals," and the fact that Americans at the time, virtually controlled the essential operations of the Hawaiian government, and the fact that the Island Kingdom later became a part of the United States, it is included herewith. Strange as it may seem, the little Kingdom of Hawaii, seems to be the first to embody in food and drug legislation, the idea of covering both man and other animals. The Sandwich Island legislators classed as malicious injuries, with suitable punishment:

The poisoning, spoiling or mixing any deleterious, offensive or injurious fluid or substance, with water, or any fluid or substance used as a beverage, food or medicine for men or animals.

OTHER STATES AT IRREGULAR INTERVALS EARLY ENACTED FOOD AND DRUG LAWS.

Rhode Island, Revised Statutes, page 546 (1857), "Every person who shall be convicted of knowingly selling, etc."

The remainder of the enactment is similar to the Massachusetts law.

Tennessee, Code, page 865 (1858). The food portion is similar to Massachusetts. In the case of drugs the act reads: "It shall be a misdemeanor—For any person to adulterate for the purpose of sale, any drug or medicine, in such manner as to lessen its efficiency or change the operation of such drug or medicine, or make them injurious to health, or sell them knowing that they are adulterated;—."

This act strikes at not only the adulterations of drugs and medicines, that are injurious to health, but also at adulterations that lessen their efficiency or change their operation, which certainly are unique features.

Wisconsin, Revised Statutes, page 976 (1858). Same as Massachusetts.

Pennsylvania Laws, page 401 (1860). The law in this state is more compact than others heretofore considered, but aims to accomplish the same purpose. It reads:

"If any person shall sell or expose for sale the flesh of any diseased animal—knowing the same to be such or shall adulterate for the purpose of sale any article of food, or wine, or shall sell, knowing the same to be adulterated, any drugs or medicines, such person shall be guilty of a misdemeanor and upon conviction be sentenced to pay a fine not exceeding one hundred dollars or undergo imprisonment not exceeding six months or both or either at the discretion of the court."

California, Statute, page 186 (1860): This is not strictly a food and drug act, but it does touch on several food and drug features, embodies some new elements, and was enacted the same year as the English law, regulating the sale of Food and Drink. For the above reasons it is considered here. The law prohibits the incorporating or intermixing of any drug or poisonous compound or anything deleterious to health, with any alcoholic or spirituous liquor, wine or cider, or any liquid used as a beverage, or selling any such adulterated products, knowing the same to be so adulterated. Such adulterated articles, not exceeding one gallon may be seized, upon affidavit, made before a justice of the peace, for the purpose of having the same tested, by a competent chemist, whose testimony shall be received in any case arising therewith.

"Nothing contained in this act shall apply to the compounding of drugs with alcoholic or spirituous liquors or wines by any regularly educated physician or druggist, when the same is done for medicinal purposes;—but such compounding shall not be for use as a common beverage."

This act contains the two following stringent features:

Any person convicted under this act shall never again be granted a license, to carry on a business of food and drinks. Every person convicted, in case of default of paying the judgment and costs, shall be imprisoned at the rate of one day for each two dollars of the judgment and costs, not exceeding six months, however.

California, Statute, page 484 (1862). This law requires foods and drinks, adulterated with poisonous substances, to bear on each package the word "Adulterated," printed in plain English. It also requires that in case such an article is sold to be consumed at the time of sale, the adulteration label must be shown to the consumer.

Oregon, General Laws, page 572 (1864), is similar to Massachusetts, but minimum penalties are fixed, not less than three months or not less than fifty nor more than five hundred dollars.

New York, Penal Code, page 169 (1865).

"Every person who adulterates or dilutes any article of food, drink, drug, medicine, strong,

spirituous or malt liquor, or wine, or any article useful in compounding any of them, whether useful for mankind or animals, with fraudulent intent to offer the same—for sale, knowing the same to be adulterated or diluted is guilty of a misdemeanor.

“The selling or disposing of any tainted food, drink, drug or medicine knowingly, to be eaten or drank by any person or animal, is guilty—.”

All of the above state laws came into existence before the 1868 food and drug statute of England became operative. Other states enacted similar laws in due time. Kansas, General Statutes, page 377 (1868), enacted the same measure as Massachusetts, except the penalties. California, Penal Code, page 86 (1871), followed the New York Code, in a large measure. Illinois, Revised Statutes, page 353 (1874), enacted a lengthy measure. It is divided into four subdivisions, under the heading “Adulteration” as follows—“Of food, candies etc., of liquor, of milk, of medicine.” The fundamentals of this measure are similar to those heretofore considered. The full penalties are rather severe, being confinement “in county jail not exceeding one year or fined not exceeding one thousand dollars, or both in the discretion of the court.”

THE CHALLENGE OF TO-DAY.

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There are many interesting and significant developments taking place in American Pharmacy at the present time. When referring to American Pharmacy, I likewise include our neighbor north of the unguarded border, for the problems of the Canadian pharmacist are quite similar to the problems of the pharmacist in these United States, especially in such metropolitan centers as Toronto and Montreal. This is only natural for one notes the methods of the Yankee making definite inroads in various sections of Canada.

It is a difficult matter to properly define in one's mind Pharmacy as it will be practiced in the to-morrow. What will be the picture of the professional Pharmacy of to-morrow? Will that status obtain at some time in the not too far distant future when there will result a well-defined line of demarcation between the professional aspects of pharmacy and drug and sundry merchandising? What is to be the nature of the daily activities of the professional pharmacist from the viewpoint of serving as colleagues to members of allied professions in the fullest sense of the word? Then there is the question of Public Health. To date the rôle of Public Health has never been defined in relation to professional pharmacy, which serves the community in the rôle of a Public Health Institution.

It is a well-recognized fact that there has resulted a distinct awakening on the part of retail pharmacists during the past few years, wherein one notes that these individuals are no longer content to follow the mirage of false profits in an over-exploited field of commercialism. The handwriting on the wall indicates that many retail pharmacists are returning to the tenets and precepts of the profession of pharmacy; men and women who are becoming convinced of the fact that the professional field seemingly offers the only tangible means of escape from their present predicament.