

POPULAR TALKS ON LAW

THE DANGERS OF BAD PIE

By Walter K. Towers, A. B., J. D., of the Michigan Bar.

Resolved, That it was not more dangerous for Caesar to establish electric fans in the basement under the Campus Martius than it is for us to eat pie.

Such is the favorite question for college debate. It is an evidence of some of the fun that is poked at pie. But pie is a national food, and as such the securing of wholesome pie is a part of the question of securing pure food.

Not long ago the question of pure pie and the legal responsibilities of the producer of poor pie became especially important to the Massachusetts man named Wilson. The Wilsons purchased a blueberry pie from the retail dealer, and partaking thereof became very ill. Wilson suffered long from an attack of ptomaine poisoning caused by eating the pie. He sued the manufacturer of the pie and recovered damages. The pie merchant carried the cases to the Supreme Court, only to be beaten again. The court had the following, in part, to say:

"It (the pie company) represented by advertisement that it was engaged in making and selling pies which were not only wholesome but of excellent quality. Apart from any expectation of pecuniary gain or apprehension of loss, it was bound in their preparation to take every reasonable precaution to supply an article of food which would not be deleterious to the consumer's health. The pie having been unwholesome, and the dealer free from blame, the question is, whether there is evidence from which it could have been found that the plaintiff's injuries were attributable to the defendant's negligence. The selection of the berries, the manner of assorting and preparing them for use, and the large volume of business transacted are described in detail by the defendant's witness. The evidence, however, need not be minutely reviewed. Its essential features only are important. It seems that a well-defined period of demand for blueberry pies of the defendant's brand had been established in the trade, for which it prepared by buying and keeping on hand large quantities of berries. But as they were not all used when the public appetite slackened or ceased, the unused portion for eight or nine months, or until the succeeding season, was thereupon stored in whiskey barrels, where the extent and force of the fermentation caused the heads to burst. The jurors from common experience could have inferred without difficulty that the fruit as a result of the process had become merely a mass of pulp thoroughly unfit for culinary purposes, and if used it might be highly injurious, or dangerous. The decomposition, moreover, according to medical testimony, had developed different toxins and poisons, making the berries noxious. If, to neutralize or overcome these properties, the defendant, with knowledge of the qualities of the ingredients, mixed fresh berries with the product of the barrels, nevertheless the fact remained that the pies consisted in part of fermented or decayed fruit. It therefore could not have been ruled as matter of law that the agency of fresh berries had counteracted the poisons and caused the compound to be healthful, and the jury, as the judges correctly held, were to determine whether the pie the plaintiff bought and ate had been properly prepared."

Thus we notice that the manufacturer of pie who advertises that he produces pure food owes to his consumer a duty to make wholesome pie, and if he does not do so, and injury results to the person who buys and eats the pie, the producer may be required to pay the damages, but to dealers in food of every variety and description. The purity of everything that is eaten by humans is of the most

vital interest and so comes within the safeguard of the law.

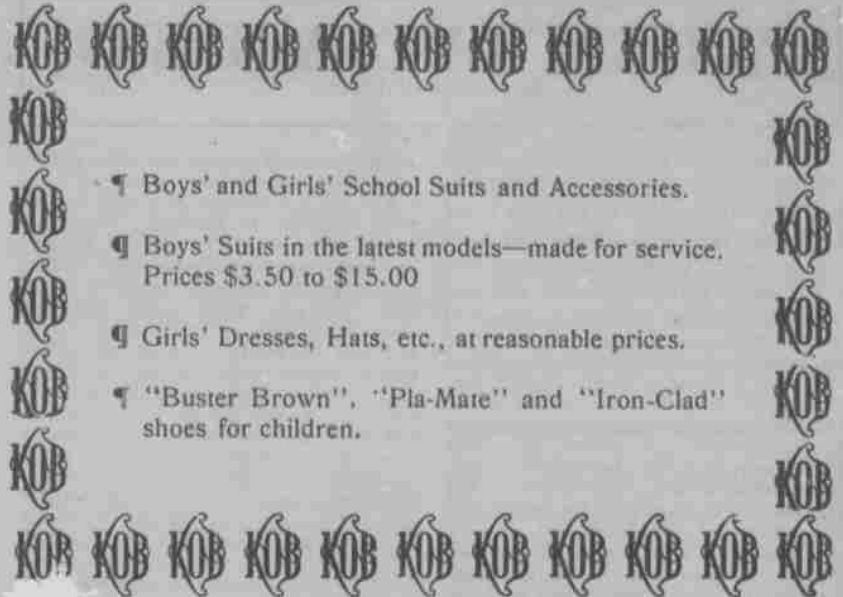
One who sells food at retail knows that he is selling it for consumption, and he is understood as giving assurance to his customers that the article which he sells is fit for human food. If it is not in a condition proper for human consumption, and he knew of it, or should have known it, he will be held responsible to the person who purchases the food and suffers loss because of its lack of purity. One may also advertise his products as being pure, as did the pie manufacturer in the above case, and he will be bound by what he states in his advertisement to the public. One may hold himself out to the public as a provider of proper food, as does a caterer who places himself before the public as one skilled in providing and preparing food for entertainments and similar occasions. In a Massachusetts case a public caterer was engaged by persons giving an entertainment to serve food and drink, and a person who attended the entertainment was injured because of impurities in the food. The person injured sued the caterer and was allowed to recover.

Not only does the law provide redress for the person who is injured because of impure food, but the national and state governments have enacted legislation with a view of preventing the sale of improper food. It is now generally understood that it is one of the proper functions of government to guard the food supply of its citizens. The power of the government extends to providing for inspection of food by public officials. Food supplies may be inspected at the place they are produced, and if unfit, sale may be prevented, or they may even be condemned and destroyed. Both the United States government and a majority of the states provide for rigid inspection of many classes of foods and give to their inspectors a wide authority in preventing the sale of food not up to the proper standard.

Regulation of food not only extends to preventing the preparation and sale of impure food, but also in protecting the public against imitations and adulterants, which may be perfectly harmless. The sale of imitations, as oleomargarine, may be regulated by the government, with a view of protecting the public against imposition. The sale of a harmless substitute for a standard article may be made lawful, but the requirement may be added that by coloration, label, or other device the public may be informed as to the exact nature of the product.

The laws which have very generally been enacted against the sale of oleomargarine colored so that it is an exact counterfeit of butter, have given rise to much bitter litigation. In states such as Vermont, where the butter producers are in the ascendancy, some very stringent laws have been passed. One state enacted a law requiring that all oleomargarine be colored pink. This was defeated in the courts, it being held that the only proper purpose of legislation regulating the preparation of food was to protect the public against impurities, and that requiring a pure and wholesome article be colored in a ridiculous manner that would in effect prevent its use as food was not proper. But the laws which now exist in many states forbidding the sale of oleomargarine colored at all have been upheld, and this though in the same jurisdictions the sale of artificially colored butter is allowed. So when the legislature enacts that colored oleomargarine may not be sold or offered for sale, its decision in the matter is final.

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