

revision and control of the Congress," and that "no state shall, without the consent of Congress, lay any duties or tonnage"; yet the states have, under what is called the "police" power, a large field of jurisdiction, within which it is quite competent for them to legislate in such a way as to prejudice traffic in commodities which, for any reason, it is found expedient to discourage.

Wide Scope for "Police" Authority

Of the different forms in which such legislation might be brought in, the one that most readily suggests itself is that of regulations ostensibly directed to the preservation of health. Such legislation is, of course, entirely within the competence of the state legislatures unless it comes in conflict with positive federal legislation. In one of the series of "oleomargarine cases" before the Supreme Court of the United States it was held that the question whether it was possible to regulate the sale of that product, or whether it was preferable to forbid it entirely, was a question of fact and of public policy which was essentially within the province of the state legislatures to determine. But the powers of the states are by no means confined to laws relating to health, such as pure food and quarantine laws. They include a wide range of supervision over what may be regarded as the general convenience and welfare of the citizens. There are, of course, numerous cases where state legislation which interfered with trade and commerce has been held invalid as trenching upon federal jurisdiction, but many of these enactments have been so crudely framed as to invite the disapproval of the courts. On the other hand, there are numerous cases where state legislation seriously affecting commerce has been held valid. Most of these cases have turned upon the scope of the "police" power.

"Police" Regu. Powers Supreme in the States

What is this police power of the states? It is spoken of by Chief Justice Shaw in one case as "the power vested in the legislature by constitution to make, retain and establish all manner of wholesome and reasonable laws, statutes and ordinances, either with penalties or without, not repugnant to the constitution, as they judge to be for the good and welfare of the Commonwealth and of the subjects of the same." This is a very wide definition, and as a matter of fact there are very few subjects of governmental activity which would not in some aspect fall under the head of police power; but under the United States constitution the term appears to denote nothing more nor less than the residuary powers of the states after the powers of the federal government have been subtracted from them. Of this "police power" an eminent writer upon the Constitution of the United States says: "In the American constitutional system the power to establish the ordinary regulations of police has been left with the individual states, and it cannot be taken away from them, either wholly or in part, and exercised under legislation of Congress. Neither can the official government, nor any of its departments or offices, assume any supervision of the police regulations of the states. All that the federal authority can do is to see that the states do not, under cover of this power, invade the field of national sovereignty, nor impede the