

THE PHARMACIST AND THE LAW

BY HOWARD KIRK* EDITOR OF THIS DEPARTMENT.

Some of the clientele have expressed pity for the Louisiana druggist who was compelled to pay \$100 to the physician whose prescription was brought to him to fill. The druggist's statement was that the prescription "was not worth a straw." The judge said that that remark was worth \$100 to the doctor in the slander suit which followed.

Inquiries have been made as to how far a pharmacist may go in commenting upon a prescription, or upon anything else for that matter. The answer is, that the only safe rule is to stick to the truth. "The truth of the charge" is an absolute defense in all civil cases of slander or libel—with the single exception that no one may ridicule a personal deformity of another, even though such comment be true. If the Louisiana druggist had been able to establish the fact that the prescription submitted to him *was* worthless, then the slander case would have been decided in his favor.

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A new form of swindle has been perpetrated upon a number of local druggists. A single illustration will show the type. A person—generally a young woman—enters a drug store with her handkerchief to her face. She says she has gotten a splinter in her eye and asks for treatment. The pharmacist rolls the eyelid back, and endeavors to locate the splinter, but without success. He finally washes the eyeball with a weak solution of boric acid and dismisses the woman, suggesting she will feel no more discomfort. The next day she returns with her eye red and swollen, and claims that the eyeball has been seriously injured by the solution used by the pharmacist. A demand for heavy damages follows.

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Demands of this nature are always particularly difficult to meet, because the pharmacist is compelled to prove a negative proposition, namely, that the boric acid used by him was not dangerous. The sufferer generally has the sympathy of the jury, and the fraud is most difficult to prove.

Recently a well-known drug firm was compelled to pay \$1000 damages in a similar case. A woman had been brought into their store in a fainting condition and the pharmacist in charge gave her a dose of aromatic spirit of ammonia. The following day an attorney telephoned the pharmacist and said that the woman had been rendered desperately sick by the dose. At the trial which followed the chemist called by plaintiff testified that a large quantity of pyridine had been found in the aromatic spirit of ammonia—a quantity sufficient, in point of fact, to destroy completely all "aromatic" features of the compound, and render the same so nauseating that it never could have been taken internally. The jury believed the story of plaintiff and her witness and a verdict resulted in the sum named. In another recent case the swindler exhibited to the pharmacist a skinned knee. The druggist applied an antiseptic, and a claim of malpractice and consequent heavy damages followed.

* Member of the Philadelphia Bar, and Lecturer on Pharmaceutical Law at Philadelphia College of Pharmacy and Science.

There is no infallible remedy in dealing with this class of swindlers. All one can do is beware.

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The foregoing brings up the question whether the pharmacist is required to treat all who come to him for aid. He most assuredly is not. He, at least, has the same liberty of action as has the physician. The courts have gone so far as to say that a physician is not liable for arbitrarily refusing to respond to a call, even though he is the only physician available. But the druggist, as well as the physician, if he does undertake to treat a patient, must use reasonable skill and diligence in so doing, and he may not cease such treatment until it is safe to do so. The fact that his services may be gratuitous has no bearing upon the case.

In other words the Good Samaritan has a perfect legal right to pass by on the other side, if he so chooses. But if he elects to get down from his beast and minister to the sufferer, then he must remain with him and use all the skill at his command—and if he is a professional man must use reasonable professional skill—in treating the man's injuries.

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To what extent may a pharmacist give medical advice? Rulings on this question are not uniform in all the states. A leading Massachusetts case lays down the principle that "If a pharmacist sells medicine, receiving payment therefor, and gives advice gratuitously as to the use to be made of it, he is not holding himself out as a physician." The various licensure acts, however, are more and more tending to restrict the legal limits of such advice.

COMMENTS ON THE OINTMENTS OF U. S. P. X AND N. F. V.*

BY NORMAN H. TAGG.

The Revision Committee of the U. S. P. X has made more changes in ointment formulae than any preceding committee in the revision of the Pharmacopœia.

Of the twenty official ointments in the U. S. P. IX, eighteen were admitted to the U. S. P. X, Stramonium and Citrine Ointments being deleted. Of the remaining eighteen, only four appear in the U. S. P. X without change of formula. Of these four whose formulae are unchanged, two appear with new titles, leaving only two ointments in the present U. S. P. having the same formulae and titles as in the U. S. P. IX.

In the N. F. IV there were twelve ointments. To these twelve, seven have been added, while none were deleted, making a total of nineteen official ointments in the N. F. V. Of the twelve original N. F. IV ointments, eleven appear in the N. F. V without change; the one change being Calamine Ointment and this is a minor change due to replacement of white wax with yellow in the U. S. P. X Simple Ointment.

Due to the many changes in the formulae of the U. S. P. and N. F. ointments, the writer believes a résumé of the changes, additions and deletions may prove

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