

# THE PHARMACIST AND THE LAW

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"Nor shall any person publish any advertisement whatsoever, which shall be false or misleading in any particular." Such is the wording of a recent State Law, marking an new epoch in the progress of business.

Few of us realize how strongly and how frequently during recent years the doctrine of honesty in business has been preached by the courts, by legislatures, and other Government agencies. There was a time when the slogan "Business is Business" served as a cloak to condone every kind of trickery that did not actually lead to the penitentiary. To-day, however, an aroused public conscience is demanding new standards.

All lines of business have felt the impress of the enforcement of these new standards of honesty. An examination of recent decisions of the Federal Trade Commission shows the following:

A storekeeper caused certain fountain pens on sale at his place to be marked with fictitious prices, when in fact the pens sold for about half of such marked price. This conveyed the idea to the public that the pens were being sold at a greatly reduced figure. The dealer was compelled to mark the true sale price on his pens.

A correspondence school was advertising "an amazing 20-day offer," during which time prospective students could receive their course at a reduction of \$17.50. The fact was that the 20-day limit was not observed, and that all courses cost \$42.50 and no reduction actually was made. The Commission compelled the school to discontinue such advertising.

A granite selling concern used as a part of its trade name, the name of a State or district renowned for its granite quarries. In truth, the firm did not own, control or operate any quarry located in such district. They were compelled to discontinue the use of this form of unfair advertising.

The Commission recently paid its respects to the fur trade. As a result, rabbit fur may no longer be sold as "Squirreline," without acquainting purchasers with its true origin; and names used must show exactly the nature of the finished product, such as "seal-dyed muskrat," "mink-dyed marmot," or "pointed fox." Other decisions affected the clothing manufacturers. They were prohibited from using the word "wool" or "serge" to describe clothing not made wholly from wool. A firm was enjoined from advertising "seamless" hosiery when the term, as ordinarily understood, was in fact untrue. In another case the use of the word "linseed" was forbidden to describe a product not wholly made of linseed oil.

In this crusade for honesty and fair dealing, the drug trade seems to have gotten off with a premonitory letter. The drug control office of the Department of Agriculture has administered the following warning, concerning the labeling of drug supplies:

"The word 'label' has been interpreted by the courts to cover any printed matter that accompanies the package..... In a labeling the manufacturer should avoid any suggestion, hint, or insinuation, direct or indirect, by statement, design or device, that may tend to convey a misleading impression in any particular, and also any unwarranted representations that are indefinite or of a general sweeping character."

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In a word, the Department says that the wording of the label must be strictly in accord with the facts.

The drug manufacturer is held to the highest responsibility for absolute truth, if he makes statements on a label concerning the cure which the drug so labeled will effect:

"Care must be taken that on the labeling appears no misrepresentation, expressed or implied, as to the therapeutic effect of the product. In making statements of therapeutic efficacy on a label the manufacturer assumes the position of one having a *special knowledge of disease and its treatment*, and the United States Supreme Court has ruled that he can be held accountable accordingly. Under the law he is responsible for his statements or representations, and no one can relieve him of this responsibility. Personal belief, testimonials in general, dispensaries, scattered isolated excerpts from medical publications, obsolete medical books, and discarded medical practices are not adequate authorities for therapeutic claims; the consensus of present-day medical opinion is the standard which should guide manufacturers in labeling. A preparation cannot properly bear promises of benefit unless as a matter of fact it can be reasonably depended upon to produce the results claimed for it..... Regardless of whether the product is recommended as a 'cure,' 'remedy,' 'relief,' 'useful in the treatment of,' 'indicated for' or simply 'for' certain diseases, the question is whether or not the product in itself, by reason of the contained ingredients, constitutes a treatment for the disorders named..... Names of organs or portions of the body should not appear upon a labeling unless the product can properly be considered a treatment for *any and all disorders* to which such organs or parts may be subject."

The drug manufacturer furthermore is held to full responsibility for the truth of statements made in testimonials:

"When the manufacturer publishes a testimonial to the effect that his medicine has produced certain results, he conveys to others the promise of a similar benefit, and *he must assume the responsibility for all therapeutic claims* made in this manner to the same extent that he does for promises to benefit made in his own words. The fact that the testimonial may be bona fide and accurately quoted does not relieve him of this responsibility."

The Supreme Court of the United States naturally has the final word. In *United States v. 95 Barrels, etc.*, a recent case, this court stated its opinion with regard to deceptive labeling or advertising:

"Deception may result from the use of statements not technically false or which may be literally true. The aim of the statute (the Pure Food and Drug Law) is to prevent that resulting from indirection and ambiguity, as well as from statements which are false. It is not difficult to choose statements, designs and devices which will not deceive."

The signs are good. It has always been considered the function of Government to deal with crime. But there are many wrongful acts which, although they fall short of being actually criminal, yet do untold harm. It is good to know that the American people are beginning to deal with just such acts, and to insist on the maintenance of rules of fair play in business, so that the honest merchant may have an even chance with his less scrupulous competitor in the development of a profitable and successful business.

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#### SACRIFICES FOR HUMANITY.

Word was received in London, May 30th, of the death of Dr. William Alexander Young, director of the Gold Coast Medical Yellow Fever Research Institute at Accra. He was a co-worker of Dr. Hideyo Noguchi, internationally known bacteriologist, who died recently, and thus two more names are added to the list of distinguished scientific martyrs.