

THE PHARMACIST AND THE LAW.

LEGAL ADVICE WITH A GUARANTEE.

In the following, an editorial of the *Scientific American*, August 16, 1919, is drawn on for information and comment. Almost everything one does to-day may appropriately be examined in the light of its possible consequence to others; and surprising it is how often agreement as to the extent of these is difficult to reach. The number of decisions which our courts reach by a divided vote is earnest of this; unanimity is the exception among professional judges. A tale is accredited to Mark Twain relating to a business man who conceived a plan for making a fortune but was in doubt as to how the courts would regard the scheme. The question was laid before a District Attorney in every detail and asked whether the plan would stand legal attack. The proponent was advised to put the plan into effect and then he (the District Attorney) would prosecute him under the assumption that the plan was illegal; the result of the trial would decide. Even such decision, as has been proven, will not always determine legality, for judges differ. The thing is reduced to a guessing contest, with penalties for a bad guess.

The American Bar Association has a suggestion which would correct this. They would have Congress empower some administrative body to determine in advance, on proper application, whether a business agreement or arrangement is due and reasonable, and therefore lawful. The decision thus reached in advance might be permanent and binding; or at least, if it were subject to review and reversal, there would be no penalty attached to having acted under it in the meantime.

Aside from the relief which this would extend to business men in enabling them to initiate large undertakings with greater security against legal inpassé, it would in all certainty relieve the cluttered courts of a goodly portion of their calendar arrears. There would of course be suits brought to reverse the commission's findings; but they would be small in numbers in comparison with present Sherman Law prosecutions, injunction proceedings and damage claims.

VENEREAL DISEASE REMEDIES
SEIZED BY FEDERAL OFFICERS
AS MISBRANDED.

By order of the Federal courts more than 450 seizures have been made recently in differ-

ent parts of the United States of so-called cures for venereal diseases. A campaign to end the false labeling of such preparations is being conducted by the officials charged with enforcing the Federal food and drugs act. In all the seizure actions the Government alleged the preparations to be falsely and fraudulently labeled, because the ingredients could not produce the results claimed on the labels.

Action under the Federal food and drugs act in reference to venereal disease preparations coming under its jurisdiction and sold under proprietary names is limited by the terms of the act largely to the prevention of false or fraudulent labeling. The act does not prevent the sale of any mixture as medicine, however worthless it may be, if there is directly or indirectly no false or fraudulent labeling. The officials in charge of the enforcement of the act are of the opinion, however, that by causing the elimination of false labeling, upon which the sale of such preparations largely depends, the evils and dangers resulting from their indiscriminate use can be greatly checked and substantial aid rendered to public health officials.

SALE OF FLAVORING EXTRACTS AND
TOILET PREPARATIONS RE-
STRICTED TO LEGITIMATE
USE.

Commissioner Roper has declared that greater precaution must be taken to prevent the marketing, under the guise of legitimate and necessary medicinal toilet and flavoring extracts, of preparations which do not conform to the standards fixed by the regulations and which are easily and generally diverted to beverage uses. Hereafter, he states, all manufacturers of preparation in which non-beverage alcohol is authorized to be used will be uniformly held for tax and penal liability where their products have been found to be marketed and manufactured otherwise than according to the regulations.

CHANGES IN THE PROHIBITION EN-
FORCEMENT BILL.

The National Association of Retail Druggists was successful in getting incorporated by the Senate Judiciary Committee into the prohibition enforcement bill as reported to the Senate an amendment under which retail druggists will be able to obtain permits for the purchase of alcohol for legitimate purposes that are good if issued after August 31 in any

year until December 31 of the year following instead of being good only for 90 days, as previously provided.

Amendments to the bill permit manufacturers and wholesale druggists to advertise alcohol in "business publications or trade journals circulating generally among manufacturers of lawful alcoholic perfumes, toilet preparations, flavoring extracts, medicinal preparations and like articles;" the word "non-potable" has been stricken from the section exempting from the provisions of the act denatured alcohol, medicinal preparations, patented and proprietary medicines and toilet, medicinal and antiseptic preparations and solutions. The phrase "unfit for beverage purposes" has been retained. The definition of flavoring extracts and syrups exempt from the bill is that they must be "unfit for use as a beverage." It is provided that no more alcohol shall be used in the manufacture of extracts, syrups, etc., which may be used for beverage purposes than is necessary for the extraction or solution of the elements contained therein, and the preservation of the article.

COURT DECISION ON HARRISON NARCOTIC LAW ISSUED BY TREASURY DEPARTMENT AS T. D. 2887.

The decision as issued is as follows:

1. Narcotics—Constitutionality of Harrison Act—Section 2 of the act of December 17, 1914, known as the Harrison Anti-Narcotic Drug Act, being a revenue measure, is not unconstitutional as an invasion of the police power reserved to the States.

2. Same—Expert testimony by physicians as to manner of treating drug addicts—It is proper to permit physicians to testify as experts as to the well recognized methods among the medical fraternity of treating persons addicted to the use of narcotics for the purpose of curing them of the habit, with a view to showing that a physician did not dispense narcotics in a legitimate manner. Evidence from physicians to the effect that unless confined an addict is never cured of the habit was properly admitted.

3. Same—Object of Harrison Act—The object of the narcotic act, although enacted under the taxing power of Congress, is to prevent the growing use of narcotics, deemed a menace to the nation by Congress, the act having a moral end as well as revenue in view.

4. Same—Proviso of Act—Sales of Physicians. The fact that a physician when "in the course of his professional practice only" is excepted from the requirement that narcotics shall be dispensed upon an official order form does not provide the authority for a physician to sell narcotics, if he does not do so in good faith, for the purpose of securing a cure of one suffering from an illness, or to cure him of the morphine habit. The exception referred to must be construed strictly, in accordance with the general rule, and those who set up any such exception must establish it as being within the words, as well as within the reason, thereof. A contention that the act does not make it an offense for a registered physician to sell narcotics under any circumstances is without basis.

5. Same—Personal attention to addicts by physicians—A physician who furnished narcotics to an addict in decreasing quantities and claims to be attempting a cure of the addiction is acting contrary to the narcotic act when it is shown that the physician has not personally attended the addict, or has given the addict some personal attention, but not sufficient to show, in connection with other facts and circumstances, that he acted in good faith.

6. Same—Indictment for violating Harrison Act—Evidence as to sales to third persons. The illegal dispensing of narcotics may be made a separate count in the indictment as to each addict involved, and evidence may be admitted tending to prove sales of the drug by the physician to persons other than those mentioned in the indictment, such evidence to be considered by the jury in determining the intent, or system, or knowledge on the part of the physician in selling to the persons set out in the indictment.

PAREGORIC SALES RESTRICTED.

Sales of paregoric and other similar exempted articles for any but legitimate medicinal purposes are not permissible under the Harrison Law, according to an interpretation made by a United States Court in the Oliver case. In that decision the court held that a sale of paregoric to a narcotic addict for the satisfaction of a craving, and not for legitimate medicinal use, is a violation of the Harrison Law. In view of the susceptibility of paregoric to illegitimate usage, it is recommended that all pharmacists restrict their sales of this and similar

preparations as much as possible, assuring themselves at all times that supplies are not diverted to illegitimate purposes, which might be done by fixing a low maximum quantity to be supplied to any one customer at one time.

TREASURY DECISIONS APPLYING TO
MEDICINAL ARTICLES AS RELATED
TO THE EXCISE TAX REQUIRE-
MENTS OF REVENUE ACT
OF 1918.

Articles Given Away as Free Samples.—Article 5 of regulations 51 is supplemented by adding thereto the following:

"Articles given away as free samples are not subject to tax if a notation is made on the package that the article is not to be sold for consumption or use, but is a free sample. If an article taxable under Section 907 is given away free with the purchase of another article taxable under this section the tax shall be computed upon the total amount paid and the proper amount of stamps affixed to the package."

"When a dealer dispenses bromo seltzer, seidlitz powders, tc., to customers he will be considered the consumer and must affix the proper stamps to the bottle."

Sales to the United States or a State.—Article 8 of regulations 51 is hereby amended to read as follows:

"Articles sold to the United States or to a State or a political sub-division thereof for use in carrying on its governmental operations are not taxable."

Cough Drops.—Article 16 of regulations 51 is supplemented by adding thereto the following:

"Where cough drops are held out or recommended as remedies or specifics for a cold or affection of the throat and are sold by or for a dealer or his estate for consumption or use, such sale is subject to a tax of 1 cent for each 25 cents or fraction thereof of the amount paid for the cough drops. If two or more packages of cough drops, troches or lozenges recommended as a remedy for a cold or for an affection of the throat are sold for 25 cents or less, the tax collectible is 1 cent, provided

the container or wrapper in which the packages are sold bears the requisite tax stamp or stamps."

Serums, Vaccines, Etc.—Article 17, sub-division (d), of regulations 51 is supplemented by adding thereto the following:

"Chemical preparations such as serums, vaccines, antitoxins, and salvarsan when prepared by open formula advertised to the medical profession only and the labels and directions indicate use only by the medical profession, are exempt from tax."

COÖPERATION CONTEMPLATED IN A
MEASURE BEFORE CONGRESS IN
THE CARE OF DRUG ADDICTS.

Senator France, of Maryland, has introduced a bill in Congress whereby States co-operating with the Federal Government may utilize hospitals of the Army and Navy for the care and treatment of drug addicts. Part of the enacting clause reads:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Secretary of the Treasury is authorized to coöperate with the States through their respective State boards or departments of health, narcotic commissions or other State or municipal officials in charge of the control of the production or distribution of narcotics and habit-forming drugs, or in charge of the care and treatment of drug addicts, in contributing to the care and treatment of drug addicts resident within the confines of the respective States, but no money appropriated under this act and apportioned to any State shall be expended therein until its Legislature shall have assented to the provisions of this act, except that until the final adjournment of the first regular session of the Legislature held after the passage of this act the assent of the Governor of the State shall be sufficient and until an equal sum has been appropriated by the Legislature or provided by municipalities therein or by private contributions from within the State for the prevention or control of drug addiction and the care and treatment of drug addicts.

PUBLICATIONS RECEIVED.

Twentieth Report of the Michigan Academy of Science; Notes on the Michigan Flora; The Yellow Flowered Cypripediums; The Trillium Grandiflorum Group. Oliver Atkins Farwell.

Tsuga Americana (Mill.) Farwell, A Final word; Bromelica (Thurber): a New Genus of Grasses; Necessary Changes in Botanical Nomenclature. Reprints from Rhodora,