

four contained 4 ounces at 5¢; one, 8 ounces at 10¢; two, 6 ounces at 10, and five, 4 ounces at 10¢.

RESULTS OF ANALYSES.

All the samples met the Mg and SO₄ test, also that for heavy metals and for arsenic. U. S. P. requirement, Mg₂P₂O₇, 0.4495-0.4944.

Sample state.	Crystal-form.	Chlorides.	Assay Mg ₂ P ₂ O ₇ .	Sample state.	Crystal-form.	Chlorides.	Assay Mg ₂ P ₂ O ₇ .
Ind.	Prism	More	0.4598	N. Y.	Needle	Less	0.4816
Ill.	Needle	Less	0.4528	U.	Needle	Less	0.5233
Pa.	Prism	More	0.4828	Ia.	Needle	Less	0.4580
O.	Needle	Less	0.4604	Calif.	Prism	Less	0.4692
Md.	Prism	More	0.4700	Col.	Prism	Less	0.4916
D. of C.	Needle	More	0.4633	Nev.	Prism	Less	0.4606

Remarks.—All of the samples were of excellent quality except for a slight difference in chlorides and that one sample assayed high due to the effloresced condition.

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THE DRUGGIST AND THE LAW.*

BY CHESTER A. BATCHELOR.

The subject assigned to me for discussion is, at the best, prosaic. A distinguished jurist has remarked that the average individual shuns the law and only seeks methods of avoiding the law and the courts. However, as society has progressed and become more complex, the law, that is, the organized rule of conduct, has likewise become complex and no one, whatever be his business or status in life, can in this age avoid contact with the law. In the march of civilization, because of their conservative nature, the so-called learned professions have progressed the most slowly. Ever through the ages, these professions, law, medicine, pharmacy and religion, have been the conservative, the steadying processes of civilization. At times the learned professions have been too conservative but it cannot be denied that the very conservative tendencies of the so-called learned professions have been of great value to civilization.

You belong to an honorable learned profession which has evolved in the course of time from that of the compounding of drugs with high-sounding impressive names, to that of salesmen and merchants. Gone forever is the corner drug store of my youth, with its large stock of drugs, whose business was confined solely to the compounding of medicines and the sale of patent and proprietary medicines with perhaps an occasional sale of stationery and jewelry on the side. The main business of the drug store of two generations ago was confined to the sale of drugs, compounded in the store. The main business of the drug store of to-day is the sale of patent and proprietary medicines and drugs compounded in large pharmacal laboratories, and the sale of a large variety of general merchandise. The word "sundries" as applied to the average drug store of to-day no longer means drug sundries but all sorts of merchandise ranging from hardware to foods and food supplies. The successful

* Parts of an address by Judge Chester A. Batchelor, of Seattle, at the annual banquet of Washington State Pharmaceutical Association, 1928.

druggist of to-day must know as much about the science of salesmanship as he does about pharmacy.

The pharmacist has evolved from the compounder of pills into a purveyor of general merchandise. It is immaterial whether the transition has been pleasant or even whether it has been beneficial; the fact remains that this situation exists and the profession must face the situation as it exists to-day.

Because you still compound drugs and sell medicines, you have evolved into merchants who are required to have special knowledge and fitness concerning a portion of the merchandise you sell. You must, therefore, have special educational qualifications and the laws still and always will require educational qualifications of you.

The statutory laws relating to pharmacy and druggists therefore consist of:

First. Laws regulating the sales of drugs and medicines.

Second. Laws regulating the sale of general merchandise including foods and candies, applicable to all merchants.

It is unnecessary to recite the laws regulating the licensing of pharmacists. You all are familiar with them, and a recital verbatim of the various laws regulating the sales of drugs and poisons would needlessly lengthen a paper and discussion which may bore a great many of you. I shall, therefore, confine the scope of this paper to a discussion of a provision of the pharmacy law of this state (Washington) which vitally affects druggists; namely, the provision relating to shop-keepers' licenses.

SHOP-KEEPERS' LICENSES.

Because you are required by the law to have special educational qualifications, because you have spent time and money in acquiring a knowledge of pharmacy, you have a right to, and should be protected so far as possible in the privileges gained thereby. Otherwise your certificate of pharmacy has not been or will not be of much value to you.

In the competitive struggle for existence, it is but natural that other merchants should seek to secure the especial privileges granted by the law to druggists by reason of their special qualifications and training. The purveyors of general merchandise naturally seek to handle drugs and medicinal preparations and unless prevented by law, will gradually usurp the field of the druggist. The druggists in times past have not, I believe, fully realized this peril to their profession and through their failure to organize, have lost much ground and prestige. Already in many states of the Union, general merchants are permitted by what are termed "shop-keepers' licenses" to handle what are known as patent and proprietary remedies. In this state, under the law (Sec. 10138, Remington's Compiled Statutes) a person with no knowledge of drugs may, by payment of an annual shopkeepers' license fee of \$6.00, deal in and sell "the commonly used medicines, or patent and proprietary medicines, if such medicines are sold in the original packages of the manufacturer, or in packages put up by a registered pharmacist in the manner provided by the state board of pharmacy." I quote the exact provisions of the law.

This and other state shop-keeping license laws were enacted upon the theory advanced by purveyors of general merchandise that neither knowledge nor skill is required in the sale of patent, proprietary or domestic remedies. While our own

Supreme Court has not passed upon the validity of our shop-keepers' law, such laws have been upheld by the courts of several states upon the theory stated. Such was the decision by the Supreme Court of North Dakota found in 215 Northwest Reports at page 487 although the court admitted that the state had the power to regulate the sale of medicines.

While it may be true that it requires no especial skill to sell a commonly used, a patent or a proprietary medicine, yet because they are articles to be consumed by and affect the health of the human being, their sale should be regulated in order to prevent their misuse and in order to prevent the seller from making false therapeutic claims relative thereto. No articles intended for or sold under the guise of medicine should be handled or sold except under the strict supervision whether sold by the dose or in the original package.

If the validity of the shop-keepers' license law be however conceded, it is readily apparent that the Washington law is defective and is practically valueless as a protection to the licensed pharmacist or as a safeguard to the public health. It neither defines the terms "commonly used medicines," "patent or proprietary medicines" nor does it restrict their sale even as medicines. The result, as a practical matter, is that shop-keepers may make unrestricted sales of certain medicinal preparations while the honest licensed druggist is restricted to their sales in good faith as a medicine. It means that under the guise of selling the same as a medicine the shop-keeper is unrestricted in the sale of all patent concoctions so long as he sells in the original package. Again the law does not even provide for the approval or inspection of the patent medicines by any health officer. Subject, therefore, to the terms of the Federal Pure Food and Drug Law, a man may make a so-called medicine in one state, label it and ship it to shop-keepers in Washington and sell it through them without any inspection or approval on the part of Washington state officials. While the druggist is prevented by the ethics of his profession and the power held over him by the State Board and the director of licenses, from making false therapeutic claims for medicines, there is nothing to prevent the shop-keeper from so doing. He has no examination to pass to secure his license and he has no ethics of the profession to uphold. If the laws relative to the manufacture of patent medicines are lax in, say New Mexico, still the concoctions there manufactured can be freely sold by shop-keepers in the state of Washington, the only requirement being that they be sold in the original package.

Since the advent of prohibition the sale of alcoholic preparations such as various bitters has largely increased. A number of manufacturers of such preparations with a view to promoting sales, have placed the sale thereof in the hands of shop-keepers and in the hands of those not even licensed as shop-keepers.

A large number of such preparations as you all doubtless know are sold more for the "alcoholic kick" than for the medicinal value thereof. For that reason alone, their sale should be restricted to responsible and reliable druggists who, by reason of their skill, could ascertain when the same is being purchased in good faith as a medicine or as a beverage.

A test case was recently brought before me wherein two pool-room proprietors were charged with selling intoxicating liquor, it being alleged that they sold one of these so-called bitters and that the preparation was in fact an intoxicating liquor. Although they sold this high-powered alcoholic compound over their bars at 25

cents per drink and the stuff was familiarly known as and ordered under the name of "Ink," the defendants claimed that because the preparation was registered under the Federal Prohibition Law as a medicinal preparation, it was not an intoxicating liquor and could be sold by any person as a medicine or tonic.

I held such a defense untenable for the following reasons:

First. Any alcoholic compound capable of being used as a beverage is intoxicating liquor under the law of this state and that while druggists in good faith could sell such compounds as medicines no one could sell them as beverages.

Second. That the defendants being neither druggists nor shopkeepers could, under the law, sell medicines and that shop-keepers could only sell in the original package and not by the drink or dose.

Third. That while a presumption arose in the case of druggists selling such preparations that the same were sold in good faith as medicines their sale by persons not licensed to handle medicines, raised a presumption that they were sold not as medicines, but as beverages.

You may imagine my surprise when, after handing down the decision, one of the Seattle papers came out in flaring headlines to the effect that druggists "win fight to sell wine." The point which I want to emphasize to you from this case is that had these men been licensed as shop-keepers and had they sold the preparation by the bottle they could have put on a defense which might have acquitted them as they would have thereby confined the case to the single issue of their good faith in the sale. While the shop-keepers' law was not intended by the legislature as conferring upon shop-keepers the privilege of selling alcoholic preparations under the guise of medicine, yet by reason of its loose wording, the law, to say the least, is very ambiguous in that regard.

I, therefore, believe that the Washington shop-keepers' law should either be repealed or amended in the interest of public health as well as a safeguard to your profession. At least, the law should definitely state just what is meant by the terms "Commonly used medicines," "patent and proprietary medicines," and the law should place some restrictions around the sale thereof by the ignorant and the unscrupulous.

It has also been advocated in at least one state, since my decision in the bitters case, that licensed druggists should refuse to handle such of the so-called alcoholic medicinal preparations which are peddled by the manufacturers and jobbers thereof to shopkeepers and to unlicensed dealers who have neither the right in law nor justice to handle medicinal compounds. Such preparations by the very manner of their sale negative any presumption that they were ever intended as medicines.

Pharmacy is an ancient and honorable science. The chemist, the pharmacist and the physician are the handmaidens of the science of medicine. They have always been the benefactors of mankind. By all honorable means preserve the traditions, integrity and usefulness of your profession. To so preserve them you must safeguard the privileges gained through your scientific study, work and experience. To properly safeguard those privileges and prerogatives you must maintain an active militant organization. You owe this not only to yourselves but to the public health and safety as well.

United in an active, militant organization you will stand, divided you will fall.