

LIABILITY OF DRUGGIST FOR NEGLIGENCE IN SALE OR COMPOUNDING OF DRUGS.*

Generally, as to Duty and Liability.—The duty owed by druggists to their patrons is to exercise ordinary care. This, however, is ordinary care with reference to the particular business in question, and is fixed in view of the probable results of negligence. The care required of every person is always commensurate with the dangers involved. It is necessary, in order to establish the required degree of prudence, vigilance, and thoughtfulness to consider the poisonous character of so many of the drugs with which the apothecary deals, and the grave and fatal consequences which may follow the want of due care. The general customer ordinarily has no definite knowledge concerning the numerous medicines, but must rely implicitly upon the druggist, who holds himself out as having the peculiar learning and skill necessary to a safe and proper discharge of the duty legally required of him.

Ordinary care with reference to the business of a druggist must therefore be held to signify the highest practicable degree of prudence, thoughtfulness, and vigilance, and the most exact and reliable safeguards, consistent with the reasonable conduct of the business, in order that human life may not constantly be exposed to the danger flowing from the substitution of deadly poisons for harmless medicine.

All the authorities agree, and the very necessities of the case require, that the highest degree of care known to practical men must be used to prevent injuries from the use of drugs and poisons. It is for these reasons that a druggist is held to a special degree of responsibility. The care must be commensurate with the danger involved. The skill employed must correspond with that superior knowledge of the business which the law requires. The same rule that applies to the common carrier of passengers, and for the same reason—that is, that the life and safety from bodily harm of a passenger is at hazard, and his security due to the care and

* This article is taken from the *Central Law Journal* of April 26th. The authorities for the various propositions will be found in that issue.