

# Canadian Druggist

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## Canadian Druggist

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### The Council Ahead.

The final success of the Council of the Ontario College of Pharmacy in its prosecution of R. Simpson, as set forth below, entitles that body to a degree of credit which is rarely given it. The chances in favor of the Council were not any too bright, but, relying upon the advice of a cautious counsel, and the justice of their cause, they pushed to a definite determination an understanding of the Pharmacy Act. The interpretation, now for the first time given, is one which cannot fail to greatly strengthen the present Pharmacy Act if carefully husbanded and applied.

### In the High Court of Justice—Queen vs. Simpson.

#### STATED CASE.

On the 13th day of April, 1896, the college, through its detective, laid an information in the Police Court, Toronto, against Robert Simpson, the owner and proprietor of a large departmental store on the corner of Yonge and Queen streets, in the city of Toronto, to the effect "that in the months of February, March, and April, 1896, the said Robert Simpson did unlawfully 'keep open shop' for retailing, dispensing, and compounding poisons contrary to the form of the Pharmacy Act and amendments thereto in such cases provided."

The purchase made by the detective consisted of five bottles of drugs, one bottle containing carbolic acid, and the others made up from doctor's prescriptions handed in by the detective and consisting of carbolic acid, aconite, and strychnine. When the detective made the purchase, some of the bottles were wrapped up in printed circulars issued by Robert Simpson, giving the price list in his patent medicine department, and also a notice to the public that those who were interested financially in the filling of doctor's prescriptions should deal with him, as he was prepared, with a complete drug department, to serve the public at the lowest rate of profit compatible with the quality of the drugs. These purchases were proved before the Police Magistrate, also the circular, as well as

the receipt given for the money, which showed that Robert Simpson was the owner of the store and received the payments for the goods purchased.

The case for the College was looked after by Mr. E. T. Malone, of the firm of Edgar & Malone, the College solicitors.

Mr. Ritchie, Q.C., appeared for the defendant, and contended that no breach of the Act had been committed, that the public was properly protected, in that the drug department in the defendant's store was under the sole control of a registered chemist, Mr. Charles Potter Lusk, and that no one but the said Lusk made any sales or put up any prescriptions that contained poisons.

C. P. Lusk, in giving his evidence, swore that by the agreement between him and his employer, Robert Simpson, he, Lusk, had the sole control of the department, even to the exclusion of Simpson. Lusk made all the purchases, but Simpson paid for them and received the proceeds of all sales. Alleged that he was assisted by another graduate of the College, named Mr. Warren.

In cross-examination by Mr. Malone, he produced the agreement between him and Simpson, which was to the effect that he, Lusk, was to manage the drug and patent medicine business carried on at Simpson's, and to sell, dispense, and compound all poisonous drugs and medicines required to carry on such business; that he was to receive one per cent. of the net profits to be derived from the sales of drugs and patent medicines containing poisons and an additional sum of \$15 per week, but no commission was to be paid him on any other sales. The agreement was to be terminated by either party on a week's notice.

The run of the defence was also to the effect that Lusk was a partner in Simpson's business and that as Simpson took no part in the sales he had a right to put his name into the business so long as it was conducted by a qualified party.

The Police Magistrate had no doubt that Robert Simpson was the owner of the business, and that Lusk was only a servant, but when he considered that the public was properly protected by the employing of a registered chemist, who personally conducted the sales of all poisons, he refused to convict and dismissed the case. He refused to listen to English cases, which the college solicitor cited in the support of the conviction.