

CAN THIS BE TRUE?

THE following are the facts of a transaction as they come to us, and the truthfulness of which is vouched for by parties we are disposed to believe:—

In the Ontario College of Pharmacy, the students were in need of a supply of blank books such as are used in note taking at lectures. A regular dealer in such supplies was approached, who gave a quotation of 30 cents each for a quantity of 600. The offer was not accepted, but instead the purchase was made from the R. Simpson Co. at 25 cents. The book secured contained about 50 pages more and was thicker than the sample furnished by the regular stationery dealer, but in quality of paper and binding was very much inferior. Now we confess that when the affair was first reported to us we found difficulty in crediting its truthfulness. That any institution in any manner connected with pharmacy should patronize and encourage a corporation whose avowed object is the destruction of their profession, passes comprehension. What have the druggists of Ontario to say to this? Are their good dollars to go into an institution which plays so freely into the hands of their enemy? What a farce, anyway. The council spending money prosecuting a firm for keeping a drug store in violation of the Act; the retail druggists of the country putting thousands of dollars into an organization to fight cutters and departmental stores, and here we have a body of students, some of them already owners of stores, others hoping soon to be in such a position, purchasing supplies from one of these concerns because of a few cents difference in price, irrespective of the fact that such difference is more than accounted for in the inferiority of the goods.

THE SIMPSON CO. CASE.

"WE must invoke the civil courts, and till it is settled they can go on selling drugs below cost on bargain days," was the remark of Mr. B. B. Osler at the conclusion of another effort to secure an interpretation of the Pharmacy Act, as to the legality of a joint stock company running a dispensary drug store. Most of our readers are familiar with the case, which is briefly as follows: The Infringement Committee of the Ontario College of Pharmacy secured a conviction against R. Simpson for keeping open shop for the sale and dispensing of drugs, with Mr. Chas. P. Lusk, a qualified druggist, in charge. Immediately afterwards the R. Simpson Co., Limited, was formed, with Mr. Lusk as a member of the company holding one share. A charge was laid against the company by Council Detective Brown for violation of the Pharmacy Act. The case was tried by P.

M. Denison, who dismissed it. Mr. E. T. Malone, who prosecuted, urged a formal conviction in order that an appeal might be taken and an interpretation of the law secured from a Superior Court, but the magistrate said it could be appealed either way.

The appeal was accordingly taken on a stated case by the magistrate. This came up for argument on November 25th, 1896, before the Divisional Court, Osgoode Hall, Chancellor Boyd presiding. At this hearing the Simpson Company's counsel raised a preliminary objection that the court had no jurisdiction and the magistrate no power to state a case. Their Lordships sustained this contention, and on the technicality sent the case to Judge McDougall and the sessions. At this court, on March 22nd, Messrs. Malone and Osler appeared to push the appeal. Messrs. Ritchie, Q.C., and Shepley, Q.C., acted for the company. Mr. Ritchie objected that no appeal could be made, there having been no conviction, and put in a mass of law and cases to show that there is no right of appeal from the dismissal of a case in a lower criminal court. Mr. Osler listened awhile to see if he could find a flaw in the objection to an appeal, and finally said:

"We cannot successfully contend that there is the right of appeal. Magistrate Denison pooh-poohed the idea that an appeal didn't lie either way, but I find no law in its favor; we wanted him to make a conviction and then argue the merits of the case here. This is the first time I have known of an appeal from a dismissal. We will have to invoke the civil courts."

And so the matter stands, the only points settled being that there is no appeal from a magistrate's court to a superior court when the charge is for violation of an Ontario statute, and also that there is no appeal from the magistrate's dismissal of a case.

It certainly is not encouraging for the Council to have to pay for the settling of fine technical points of law, when they are honestly seeking after an interpretation of their own Act. It certainly looks as if every Act put on the statute books was principally intended for the pecuniary benefit of the legal fraternity, rather than the protection or regulation of the public. To repeat a previous remark when commenting on this case, we sincerely hope that the Infringement Committee will not be turned aside by the discouragements with which they have been met, from their purpose to secure an interpretation of the law in its bearing on company pharmacy.

An immense deposit of sulphur has been found in the Cascade Mountains near the line of the Northern Pacific. The sulphur is said to be exceptionally pure, and the vein is practically inexhaustible.