

Illegal Sale of Poison.

At the Police Court, on Friday, November 25th, twenty-five druggists were charged by George Albert Mason with having, on the 17th instant, sold poison contrary to law.

Mr. J. H. Patterson appeared for the prosecution and Dr. McMichael for the defence.

Dr. McMichael proposed that as the information was the same in all the cases, one of them be tried as a test.

Mr. Patterson wished, however, to take each case separately.

The first case on the calendar, that of J. O. Wood, was therefore called, when

Dr. McMichael said that the information contained no specific charge; it was not stated therein that the defendant had sold laudanum and at any rate it was a question whether laudanum came under the statute, for that drug was not a deadly poison.

Mr. Patterson said that they did not claim that laudanum was a deadly poison; and with regard to Dr. McMichael's first objection, he held that the declaration on the information that poison had been sold "contrary to law" was sufficient to warrant the case being tried.

John Gill, sworn—*I live in Toronto; know the defendant; he keeps a drug store on Queen street.*

Mr. Patterson—*Did you purchase anything in his place lately?*

Witness—*Yes; I bought some laudanum.*

Dr. McMichael—*Stop, witness; are you a professional man?*

Witness—*No.*

Dr. McMichael—*Well, show the article you purchased.*

Witness—*I bought the laudanum on the 17th; the defendant told me that he was liable to a fine of \$50 for selling it; when I asked him for it, he hesitated a little and then gave it to me, (the laudanum purchased by the witness, was produced); I paid 10 cents for it; when I got out of the store I marked the defendant's name and the number of his store on the wrapper of the bottle, and at night I put on the time I bought it; I bought the laudanum without a certificate from a medical man, priest or minister; the defendant did not ask me for any.*

Cross-examined—*It was about ten o'clock; the defendant gave me the laudanum; I can't say whether there was any person else in the shop or not; I gave as a reason for wanting the laudanum that my rest had been broken for the last two or three nights; my rest had been broken; I bought some more laudanum on the same night; I cannot say from my personal knowledge what is in the bottle; I think the contents are the same now as when I bought the bottle, but I cannot swear that they are.*

To Mr. Patterson—*I delivered the bottle to Mason on the same night I purchased it.*

G. A. Mason was next called, when

Dr. McMichael objected to his evidence being taken, as under the statute an informer was not competent to give evidence, and besides this, complainant had been disqualified as a witness in being convicted of perjury.

Mr. Patterson held that the statute under which they were proceeding showed that an informer was a competent witness, and he

read sec. 2 cap. 13 of 33 Vic, Stat. of Ontario, which was to the effect that no person should be disqualified by reason of crime or interest from giving evidence.

The magistrate inquired if either of the learned council had looked at the Perjury Act in connection with this case.

Both of the learned gentlemen said they had not, and Dr. McMichael said that he would now have to ask for an adjournment, as he had business in other courts.

Mr. Patterson said that he also desired an adjournment until he should have the contents of the various bottles that had been purchased analyzed.

The case was therefore adjourned until Tuesday, when it was again resumed, and George A. Mason was called as the first witness, and—

Dr. McMichael again objected to the reception of his evidence, on the ground of infamy.

Mr. Patterson answered this objection by reading a clause from chapter 99, Con. Stat. of Canada, which was to the effect that in cases of summary jurisdiction, conviction should be made on the oath of one or more credible witnesses other than the informer.

Dr. McMichael held that the phrase "other than" excluded the informer. He also objected to the reception of Mason's evidence on the ground that the latter was a prosecutor, having a pecuniary interest in the result of the case, and was therefore, incompetent as a witness under Cap 31 of 32 and 33 Vic. sec. 45.

The Magistrate noted the objections and admitted Mason's evidence.

The witness stated—*I know the defendant; I was opposite Mr. Woods' store when Gill purchased the laudanum; I saw Mr. Wood serving it; Gill came out and gave me the bottle in a wrapper; the bottle was one he had just purchased in the store; the bottle produced in court on the last hearing of this case is the same; from the time I got the bottle on King street until it was produced here I had it in my possession; the cork was not taken out of the bottle during that time.*

Cross-examined—*I saw the defendant through the glass in the door.*

Mr. Shapter was called as the next witness, and at first objected to be sworn on the same Bible that Mason had had been sworn on. He finally did so however, and stated: *I am a druggist of some years experience; I should judge from the appearance of the fluid in the bottle produced that it is laudanum; but I do not know that it is; it smells like laudanum; it smells also like alcohol; laudanum is a tincture of opium; in a fluid ounce of the laudanum of commerce there would be about three grains of opium; opium is considered to be a poison, but not a deadly one; strychnia, nux vomica, arsenic and corrosive sublimate are deadly poisons.*

Mr. Patterson—*What is the difference between a deadly poison and one that is not deadly?*

Witness—*Well, about the best test would be for Mason to take a dose of strychnine and myself a dose of laudanum; (laughter); for deadly poison there is no remedy; it is more immediate in its action than poison which is not deadly, i.e., two grains of the former will kill quicker than two grains of the other; I have not always found an ounce of laudanum a fatal dose for an adult; I do not remember any case in which an ounce of laudanum proved fatal; I do not speak, in giving my classification, either from ex-*

perience or from books; I give my own estimate of them; three grains of arsenic might produce fatal results. I cannot tell in what time it would produce a fatal effect. I am not aware that two grains of opium would produce a fatal effect. I keep laudanum in my store, and dispense it. I do not sell it ordinarily as I do hair oil. When a man of ordinary intelligence asks for laudanum, I ask him what he is going to use it for, and if he knows its nature; if he gives satisfactory answer I let him have the laudanum; I would not give it in any quantity; I would determine by the purpose for which the customer wanted the laudanum the quantity to give him; I would use this caution because of its necessity, not because laudanum is a dangerous poison; but if it is incautiously used it may produce death, but not immediately prussic acid will cause instantaneous death; I am speaking of my experience on cats. I have had no experience of the deadly effects of prussic acid on a human being; I do not of my own experience know any poison that will produce instantaneous death, laudanum is a vegetable poison.

Cross-examined—*I would not class laudanum with arsenic, corrosive sublimate and strychnine; I would not call laudanum one of the poisons commonly known as deadly poisons; laudanum is not a poison that can be administered secretly, or that would be likely to be taken incautiously; I will not swear that the liquid in the vial produced is laudanum; from what I have heard of Mason's reputation for veracity, I would not believe him on oath.*

Re-examined—*I would not classify laudanum with the other poisons, because it is not so specific in its action; Mason has had me fined for selling liquor; I have no spite against him; I cannot tell whom I have heard speaking about his veracity, or where I have heard it spoken of; I have heard it spoken of repeatedly.*

Dr. Lizars sworn—*I am a qualified physician in the Province of Ontario; I have been practising since 1853; from the taste and smell of the contents of the bottle produced, I believe them to be laudanum—the common laudanum of commerce sold in drug stores and kept in most houses; laudanum is a preparation of opium; I cannot say what is the strength of common laudanum; it is commonly known as a poison and labelled as such; laudanum may be a deadly poison, and so may be arsenic, corrosive sublimate and strychnine; I never saw laudanum produce immediate death; there is no poison that I know of which will produce immediate death; arsenic, corrosive sublimate and strychnine will not do so; I would take Taylor's or Beck's Medical Jurisprudence as authority on poison; I think that arsenic might be looked upon as a deadly poison; I have known a number of persons take laudanum to kill themselves; I have known a man kill himself by taking it; there is a little over half an ounce or three quarters of laudanum in the vial produced; there is over two drachms in it; laudanum is a poison that, if used incautiously may produce death.*

Cross-examined—*I would not include laudanum in the same class of poisons as strychnine, arsenic and corrosive sublimate; secretly or incautiously administered it would not cause immediate death; there is not the same danger of laudanum being incautiously taken in dangerous quantities as strychnine, arsenic and corrosive sublimate; laudanum*