

Renault, professor at the Paris Faculty of Law, has advised the manufacturers of specialties that this prohibits an arrangement between them and the pharmacists, while another legal authority, M. Beland, considers that, by a simple exchange of letters, the pharmacist might engage himself to sell at marked prices only and undertake to pay a penalty for each infraction of the engagement proved against him, the manufacturer otherwise declining to supply his goods. Even if this could be carried out, which is somewhat problematical, the impediment to business would be great, as each manufacturer would have to sell direct to the retail pharmacists. For if, as has been suggested, the manufacturers should combine and appoint a general agent in each department, the combination to prevent free competition would be manifest. Another difficulty is that the framers of the various anti-cutting schemes cannot make up their minds as to what the correct view of the law really is. M. Chevet, for instance, whose scheme has received much attention, insists that the legal advisers who have been consulted are wrong in applying the same rules to pharmaceutical specialties as to articles such as food, etc. Specialties, he insists, are medicines, and cannot be submitted to the same rules as other merchandise. In this view he is supported by leading pharmacists of long experience, amongst whom is M. Julliard. But M. Crinon has an opposite opinion. He contends that although medicines can only be sold by pharmacists, they are merchandise none the less. The General Association of French Pharmacists is still negotiating with the syndicate of manufacturers of specialties in hope of finding a solution.

## Legal.

### Verdict Reversed.

Our readers will remember the action taken by Dr. F. R. England against Kerry, Watson & Co., wholesale druggists of Montreal, for damages on account of the death of his wife, which followed her having taken a dose of tartar emetic in mistake for bismuth. The drug was furnished by H. J. Dart & Co., who claimed to have purchased it from the defendants. At the trial before Judge Archibald and a jury a verdict was rendered to the effect that Mrs. England had died from the effects of illness which had been accelerated by the administration of tartar emetic, and Kerry, Watson & Co. were held liable and damages were awarded against them for \$1,000. The Court of Review held a short time ago, presided over by Judges Gill, Tellier, and Archibald, reversed the finding of the jury and gave judgment for the defendants. Notwithstanding the verdict contending that there was no *lien de droit* between the plaintiff and defendants, Judge Archibald, in rendering decision, said that the defend-

ants might have been held responsible for any mistake which might have occurred in any bottled drug sold under their own name, but not in such a case as the present, when the two drugs were quite different, and any expert (it certainly would require an expert) could easily tell the difference between tartar emetic and bismuth. Besides, the plaintiff alleged that there was a case still pending against Dart & Co., and liability, if any, for the mistake could be settled then. Mr. Brosseau, Q.C., appeared for Kerry, Watson & Co., and Mr. Arch. McGoun, Q.C., for Dr. England.

### The Department Store Case.

The test case in the matter of an incorporated company selling poisons, etc., contrary to the provisions of the Ontario Pharmacy Act, received a hearing in the Division Court before Judges Boyd, Ferguson, and Robertson. Alfred Brown, the private prosecutor, laid an information before Police Magistrate Denison charging The Robert Simpson Company, Limited, with infringement of section 24 of the Pharmacy Act, that the defendants did unlawfully keep open shop for retailing, dispensing, and compounding poisons contrary to the act. The evidence before the magistrate showed that the defendants have a drug department in their departmental store in the city of Toronto, at which poisons are sold by one Lusk, a qualified and registered pharmaceutical chemist, employed by defendants under a contract of hiring by the week. Lusk is the holder of a share in the stock of the defendants' company. The poisons in question are bought by Lusk, and paid for by defendants, and the profits go to them. Under these circumstances the magistrate dismissed the complaint. Ritchie, Q.C., Shepley, Q.C., and Ludwig, for defendants, argued the case on the merits, and also raised the preliminary objection that no appeal lay to this court, and the magistrate had no power to state a case, the offence being against an Ontario statute, and the code not applying, and the appeal, if any, being to the sessions, under the Ontario law, and not by Dominion law. B. B. Osler, Q.C., and E. T. Malone appeared on behalf of the Ontario College of Pharmacy. Judgment reserved upon merits and preliminary objection.

### The Duty on Alcohol.

At the recent visit of the tariff commissioners to London, Ont., a deputation representing the drug interests waited upon them in reference to desired changes.

The principal grievance brought before the commission was the subject of the excessive duty on alcohol. Mr. James Mattinson, manager of the London Drug Co., submitted a statement showing that the import duty levied made it impossible to bring in alcohol from the United States, the tariff levied being just sufficient to prevent any competition from

that quarter. The excise duty on alcohol used by druggists is \$2.80½ cents per gallon, the price charged by the distiller is \$1.15, making a total cost of \$3.95½ per gallon. Alcohol is sold in the United States at 35 cents per gallon, and in some cases as low as 25 cents. The import duty on this grade of alcohol is \$3.71¼; add this to 35 cents, it makes a total of \$4.06¼, or 35 cents per gallon in favor of the home product. Now, if alcohol can be sold in the United States at 35 cents, it seems out of all reason that Canadian distillers should get \$1.15, or 80 cents per gallon more. As Mr. Mattinson points out, the revenue to the Government need not be decreased, but the protection granted the distiller should be reduced from in the neighborhood of 250 per cent. to, say, 20 per cent. *ad valorem*. We hope this matter will be kept before the Government, and think the Wholesale Druggists' Association should take active measures with this end in view. We append a portion of Mr. Mattinson's argument before the commission.

He claimed that the present regulations in regard to the alcohol customs and excise duties were a serious burden to over one thousand business men in Ontario alone.

The changes they proposed would not affect the revenue. They wished to compel manufacturers to accept reasonable protection. They also complained of ambiguity of the tariff, and a different rendering in different places. Ethel alcohol was used largely for extracts and in nearly all kinds of medicines, and a reduction of the duties would be welcomed by druggists of the Dominion. The duties per gallon of alcohol was \$2.80½, and the cost per gallon \$1.15, making a total of \$3.95½. Alcohol was sold in the United States for 35 cents, and, he had since learned, could be bought for less than 25 cents, as against \$1.15 in Canada.

In reference to the difference in cost he said, "There is only one explanation, to my mind, that it is going into the pockets of the manufacturers. There might be some reason for alcohol costing a little more, but not such an enormous difference."

He also argued that as practically no alcohol was imported, the revenue would not suffer by a reduction in the customs duties to \$1.70 instead of \$2.25. The druggists did not ask for a change of excise, but wanted a 20 per cent. protection only granted to the distiller in place of 250 per cent., of which 225 per cent. went directly into the pockets of the distiller. The more recent regulation requiring alcohol to be kept two years had crowded out the smaller distillers, and was in no way necessary or desirable for druggists' use.

In response to a question from Sir Richard Cartwright, Mr. Mattinson said that that no doubt the distillers will have an argument to offset it. But we have as good a grain-growing country as the United States, and alcohol should be made as cheaply.