

A Magistrate's Interpretation of the Medical Act—The Druggist has a Right to Recommend his Drugs.

Magistrate Flint gave the following judgment in the case against W. R. Carmichael to-day.

In this case W. R. Carmichael, chemist and druggist, is charged with having committed an offence in controvention of the Act of Parliament known as the Ontario Medical Act in that in the month of January, A.D., 1889, he did practice medicine for mere gain or hope of reward, not being at the time he so practiced a duly registered practitioner under the provisions of the Act above named. It is in evidence that Mr. Carmichael had complied with the requirements of the Pharmacy Act prior to the commission of the alleged offense and had all the rights and powers which the Pharmacy Act confers upon a pharmaceutical chemist.

The prosecutor, who is a detective in the employment of the College of Physicians and Surgeons at Toronto, gave evidence, which in substance was as follows: That he entered the shop of defendant, saluted defendant with the title of doctor, said he was not feeling well—thought that dumb ague was coming on—showed his finger-nails to Mr. Carmichael, which the prosecutor stated to Mr. Carmichael were purple, and which defendant examined. Defendant asked a question as to the state of his stomach and some other questions as to his health, and said he could give him something he thought would help him. Prepared a bottle of medicine from drugs in his shop. Gave prosecutor a bottle, telling him the medicine would work on the liver, and charged prosecutor fifty cents, which sum the prosecutor paid. The evidence is too long to reproduce. The prosecutor swore he thought fifty cents was the price of the drugs, and was a reasonable price, and that he did not consider that defendant charged for his advice in asking the fifty cents.

Mr. L. W. Yeomans gave evidence that he had been engaged in the drug business for thirty years, that during the entire period it was customary and usual for druggists to do what Mr. Carmichael was charged with doing. That the business of the druggist could not be carried on advantageously unless pursued in the manner objected to. If druggists were to be limited to compounding physicians prescriptions, and retailing drugs without being allowed to enquire particularly from customers for what disease the drugs were requested, and to ask questions in order to ascertain whether the drugs asked for in the absence of a physician's prescription, might not be dangerous to the health of the customer, or to answer question by a customer as to what drug or medicine would be suitable for simple diseases, such as a cold,

toothache or earache, or sore throat, a druggist could not carry on his business. L. H. Henderson, Esq., gave a similar evidence.

The Pharmacy Act was undoubtedly passed with the object of preventing incompetent persons from retailing, dispensing or compounding poisons, or selling the drugs mentioned in the schedule to the Act.

It is clear that a druggist has a right to sell drugs asked for—has a right to compound medicines—whether in obedience to a physician's prescription or not. What greater rights has he by law?

What is the meaning of the word practice?

To do—perform, or transact repeatedly customarily—habitually—to use or exercise as a profession, practising is exercising a profession—engaged in practice, practitioner, one who does anything habitually—one actually engaged in the exercise of any act or profession as that of medicine or of law. If the Medical Act actually interferes with the druggist's right to prescribe for a cold, toothache or disordered stomach, or any of the minor ills which poor mortality has fallen heir to, from the drugs on the shelves it becomes a very serious matter both to druggist and the public at large. If the druggist has no right to reply to the often asked question 'I have a cold or sore throat, what do you recommend?' under pain of \$25 fine if he answers the question and sells a suitable drug—it seems to me the Medical Act has gone much further in the way of protection to the faculty than is consistent with good sense or public policy. To ensure a conviction in this case two things are necessary: first, proof that the defendant practised medicine; secondly, that he did so for hire, gain or hope of reward. As to the first point it is clear that the defendant asked questions and received replies as to the bodily condition of the prosecutor and that the defendant prepared from drugs a bottle of medicine which he said would work upon the liver.

If it had been shown that what the defendant did was (to use the language of the defendant) repeatedly—customarily—or habitually done by him, that would in my opinion prove that he had practised medicine within the meaning of the statute—I think the statute means practising medicine as a profession—habitually—a person practising medicine means one actually engaged in the exercise. In the present case the prosecutor admits that defendant asked only the fair price of the drug and nothing for prescribing or advice; but the learned counsel urges that but for the questions asked and the diagnosis made, the defendant would not have sold the drugs. The point is very ingeniously put, but I cannot go the length required. It appears to me the safest view to take is that as the defendant asked and received the fair reasonable price of the drugs only, that there is no evidence before me that

defendant prescribed in any case or for any other person than the prosecutor on the one occasion. I decide that the defendant did not practice medicine on the occasion charged for mere gain or hope of reward, and therefore discharge the case with costs.

Belleville, Ont., Dec. 23rd.

The Influenza Epidemic.

One who has suffered from the influenza epidemic which is now raging, writes to the Star relating his experience in connection with the disease while in Paris. He declares that the statements made in the French papers with reference to the matter are not only not highly colored but minimize the actual truth. The public establishments, he says, are conducted with the greatest difficulty, owing to the enforced absence of employees, and the hotels are "Hospitals." At one of the largest, the clerks were acting as temporary waiters. "My family, including myself," the writer proceeds, "were attacked all on one day. We awoke with violent pains in the head, back and limbs. Weariness and nausea ensued, and by three p. m. we were completely prostrated. The only remedy I had with me was Dover's powder, which was in tabloid form. Three of us dosed ourselves with ten grains each, and by next morning, after a night under extra blankets, two of us were well. A third held the symptoms a day longer, and the fourth I left still in bed. She had taken quinine and not my remedy. In no case, unless prompt measures are taken, does the illness appear to prevail less than four days; in many instances longer. It appears to be a 'germ' disease, and therefore should be treated as all other epidemics. I met one man who had painted his moustache with a preparation of pinol, as a preventive. It certainly was a novel idea, but so far he had not been attacked with influenza, and the odor was much more agreeable than that of camphor. The defect of French houses and hotels is the want of antiseptic purifiers. If all public establishments were to use chloride of lime (which is very nasty), or a new preparation, eucalyptia (which is very nice), I believe there would be much less chance of such an epidemic assuming a wholesale character."—Brit. and Col. Druggist.

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Now Autumn Summer puts to rout
And chilly winds to blow begin:
The ice cream joko is going out,
The stove-pipe joko is coming in.

—Boston Courier