

**The pharmacy and poison laws of the United Kingdom : their history and interpretation with a brief account of the pharmacy laws in form in Australasia, Canada and Cape Colony.**

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THE PHARMACY AND POISON LAWS



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THE



# PHARMACY AND POISON LAWS

OF

THE UNITED KINGDOM

*THEIR HISTORY AND INTERPRETATION*

WITH A BRIEF ACCOUNT OF  
THE PHARMACY LAWS IN FORCE IN AUSTRALASIA  
CANADA AND CAPE COLONY

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## P R E F A C E.

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THE Pharmaceutical Societies of Great Britain and Ireland both require candidates for their licentiateship to pass an examination in regard to the laws on the sale of poisons in force in the two countries respectively. This treatise is published, not only to provide the information necessary to enable candidates to meet those requirements, but also with a view of furnishing a history of the legislation in regard to the practice of pharmacy in the United Kingdom, together with a record of the interpretations of the statutes which have been arrived at in the Courts and by other means. It is considered that the historical method adopted is the one best suited for fully explaining the objects of the statutes referred to, and it is believed every case which has thrown any light on the Acts governing the business of pharmacy in the United Kingdom has been introduced.

We have to acknowledge the courtesy of the proprietors of *Hansard's Debates* in permitting us to reproduce the official record of the parliamentary discussions which preceded the passing of the Pharmacy Acts 1868 and 1869, and that of the proprietors of the *Law Times* for allowing us to reprint their reports of the important action between the Pharmaceutical Society and the London and Provincial Supply Association (Limited).



*(From the Regulations of the Board of Examiners of the  
Pharmaceutical Society of Great Britain.)*

On and after January 1, 1893, candidates will be required to enumerate the poisons contained in Schedule A. of the Pharmacy Act, 1868, and those since added thereto, in pursuance of the provision contained in section 2 of that Act, viz. :—

- (a) Poisons within Part I. of the schedule.
- (b) Poisons within Part II. of the schedule.

They will be required to describe minutely the conditions required upon the sale *by retail* of poisons, both in Part I. and Part II. of Schedule A.; and to write the proper entry required, according to Schedule F. of the Act, for the sale of a poison coming within Part I. of Schedule A. They will also be required to state the conditions imposed on the sale of scheduled poisons *by wholesale and for export*; and upon the sale of a scheduled poison when forming an ingredient in a medicine dispensed.

A knowledge of the conditions imposed on the sale of arsenic by the Arsenic Act will also be required.

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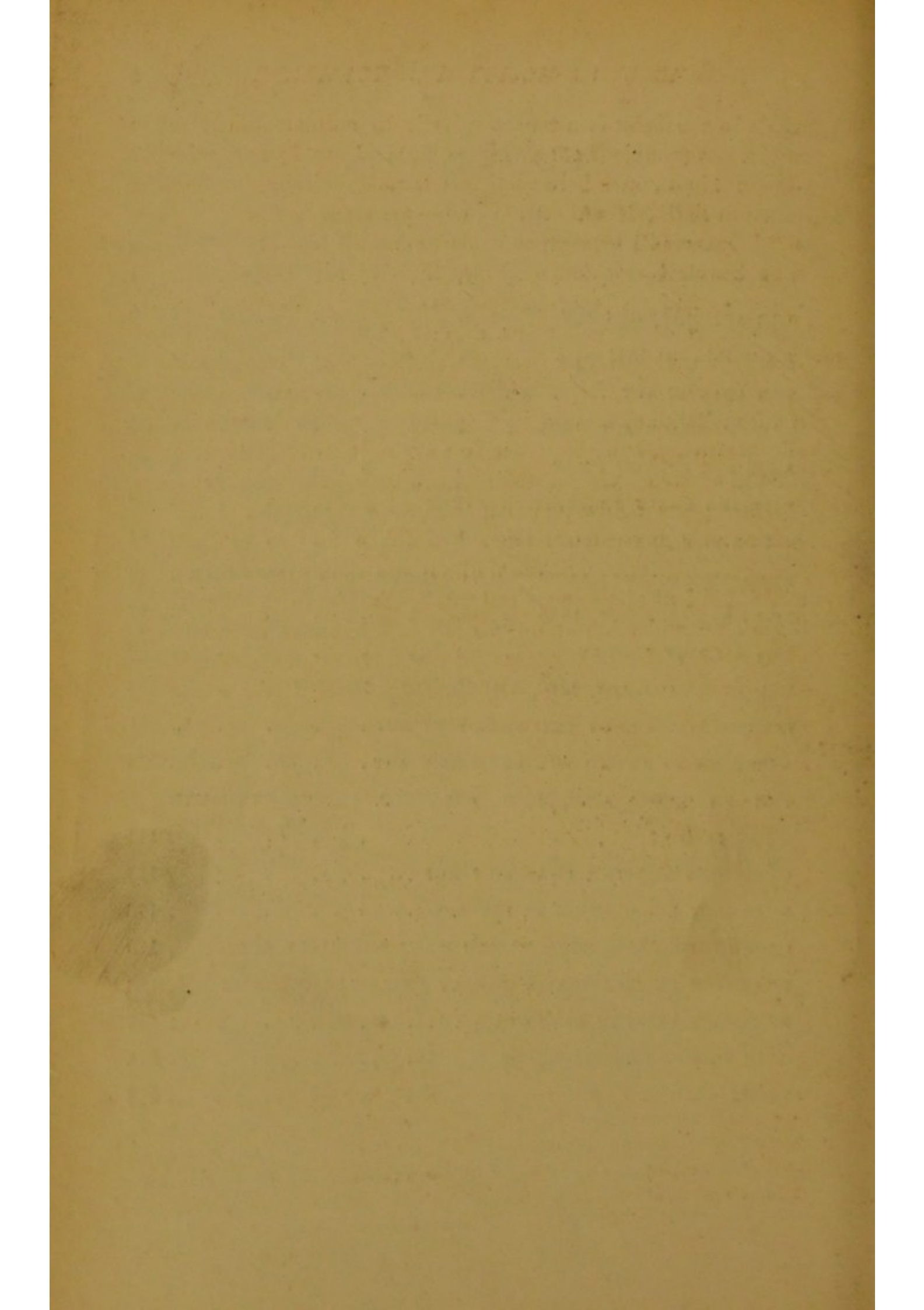
The regulations for the examinations for pharmaceutical chemists, registered druggists, and assistants to pharmaceutical chemists in Ireland all include an acquaintance with the Sale of Poisons (Ireland) Act, 33 & 34 Vict., c. 26.

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THE  
PHARMACY AND POISON LAWS  
OF  
THE UNITED KINGDOM.

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**GREAT BRITAIN.**

THE end of the eighteenth century found the apothecaries and the chemists and druggists bitterly hostile each to the other. The apothecaries had been gradually assuming the position of medical practitioners, and the druggists, who had been slowly evolving into a distinct body, partly from wholesale dealers and partly from grocers and general dealers, much as the druggists of Ireland have been doing in our time, had taken every opportunity of usurping the functions which had been regarded as especially belonging to their more exalted rivals. In the year 1793 a number of apothecaries united in an effort to suppress the encroachments of the druggists, and set to work to collect "facts demonstrative of the injury resulting to society at large, as well as to the profession in particular, from the toleration of these abuses." As a result of this movement a general meeting of apothecaries was held at the Crown and Anchor, in the Strand, on June 17, 1794, when a General Association of the Apothecaries of Great Britain was organised. The Council of this body met periodically at the Buffalo Tavern, Bloomsbury Square,



collected information of the ignorance and misdeeds of their enemies, and planned heroic measures for their suppression, or at least subjugation; but the activity died away, and the association in a few years ceased to exist. As Mr. Bell remarks in his "Historical Sketch of the Progress of Pharmacy," "it is probable that this violent attack, which was designed as a death-blow to the rising class of pharmacutists, had the opposite effect, by obliging them in some degree to reform the system of conducting their business and to unite among themselves for the protection of their interests."

The apothecaries and the druggists came together for a time in 1802 for the purpose of protesting against one of the early medicine-stamp Acts which affected the interests of both parties. They drew up a joint petition, which was presented to Parliament, and which had some effect; and, this accomplished, the two bodies went their several ways.

The long-smouldering flame broke out again in 1812. The apothecaries met again at the Crown and Anchor, on July 3 of that year, to consider what they could do in reference to increased duties which the Government were imposing on drugs, and especially on glass. Several meetings were held, and no very definite action was arrived at, but on one of these occasions Mr. (afterwards Dr.) Anthony Todd Thomson re-aroused the more keenly felt grievance of the druggists' rivalry, and thus concentrated the somewhat languishing venom of the apothecaries more than the duties on drugs or glass had been able to do. A second association was formed, headed by many of the best-known men in the society, and it was resolved to frame a Bill. The objects were stated to be—

To constitute a fourth medical body, which should be empowered to examine apothecaries, surgeon apothecaries, accoucheurs, midwives, dispensing chemists, and assistants; to prohibit the practice of medicine, surgery, midwifery, or pharmacy by uneducated persons; and to vest in the new body the prerogative of granting licences to such persons as they should find on examination to be competent, which licences should be annually renewed on payment of a fee, the examiners possessing the power of withholding them from persons whose conduct had been immoral or discreditable.



It was, besides, intended to regulate apprenticeships and to found a school where medicine, surgery, and pharmacy should be specially taught.

The Associated Apothecaries met with but little encouragement from either the College of Physicians, the College of Surgeons, or even from the Society of Apothecaries officially. But they got a Bill drafted, and persuaded Messrs. Wilberforce, Calcraft, Whitbread, and Rose to introduce it to the House of Commons in March, 1813. The Colleges of Physicians and Surgeons openly opposed it, and the chemists and druggists of the metropolis, acting on behalf of the trade throughout the country, planned a resistance to the measure which was not only fairly successful in its primary object, but which proved to be the beginning of the association which ultimately resulted in the Pharmaceutical Society of Great Britain.

A society of London chemists and druggists had been in existence since the necessity for defending their interests had brought the members of the trade together in 1802, and when the particulars of the new Bill were announced the officers of that society promptly called a meeting of chemists and druggists by public advertisement, which was duly held at the Freemasons' Tavern, Great Queen Street, on March 14, 1813. Mr. W. B. Hudson, of the Haymarket, was voted to the chair, and resolutions declaring opposition to the Bill "in all its stages, so far as it interferes with their established and universally acknowledged business," were adopted. A committee was chosen to take the necessary steps for opposing the Bill, and the names of the men who served on that committee are worthy of record in this place. They were—

## Messrs.—

Allen, Plough Court  
Bell, Oxford Street  
Cooke, Southampton Street  
Cole, Newgate Street  
Complin, Bishopsgate Street  
Curtis, Old Fish Street

## Messrs.—

Hastings, Haymarket  
Hume, Long Acre  
Hudson, Haymarket  
Phillips, Poultry  
Savory, Bond Street  
Smith, Haymarket  
Tebbs, Bond Street

This committee acted with vigour. Mr. Adam and Mr.



Harrison were engaged as legal advisers; it had been resolved to retain Mr. Brougham, but that eminent lawyer was out of town at the time. An address to the chemists and druggists of the country was advertised in the *Times*, *Morning Herald*, *Chronicle*, *Ledger*, *Star*, *Courier*, and *Statesman*; a petition to Parliament was drawn up, as well as a circular letter to members. The means of communicating with chemists and druggists, or even of accurately distinguishing them, were defective at that date; nevertheless an alarm was effectively carried throughout the country, meetings were held, local associations formed, and funds collected.

The Bill to be opposed was certainly an audacious one. It provided for a committee of twenty-seven apothecaries with eight physicians and surgeons "for ever," with power to regulate not only the practice of apothecaries, but also that of chemists and druggists throughout England and Wales. The latter were to be absolutely at the mercy of this body; were to pay them an annual licence-fee, and to be liable to have that licence refused on a charge of immorality, to be judged by the committee referred to. The Associated Apothecaries bowed to the storm. Before the date fixed for the second reading they issued a circular to members of the House of Commons, intimating that if the Bill reached Committee they would expunge from it everything affecting the compounding chemist and druggist, and would make certain other modifications to conciliate other opponents. Before the second reading came on, however, they decided to withdraw the Bill altogether, and prepare a new one to be submitted the next session.

The chemists and druggists kept their organisation together, and invested their surplus funds, amounting to over 500*l*. In 1814, after a good deal of negotiation, the Society of Apothecaries themselves prepared a Bill, which, with some modifications, was accepted as fairly satisfactory by the Associated Apothecaries; the chemists and druggists, however, regarded it as objectionable in several respects, and resolved to oppose it. The Society of Apothecaries thereupon assured



a deputation from the Chemists and Druggists' Society that they did not desire to interfere in any respect with the chemists and druggists, and they offered to insert a clause repudiating in express terms any such interference. Their solicitors subsequently wrote to the chairman of the Chemists and Druggists' Committee repeating this offer, and giving the draft of the repudiation clause which they proposed. The chemists and druggists took counsel's advice, and proposed to the Society of Apothecaries a more comprehensively worded saving clause. This the apothecaries accepted without demur, and they also agreed to withdraw a clause from their Bill enlarging their powers to acquire land. These negotiations and their effect are referred to more fully under "Chemists and the Apothecaries Act," on pages 9 to 12. The Bill was passed, and the statute is still in force, being known as

### THE APOTHECARIES ACT, 1815.

THE Act known under this title is legally referred to as 55 Geo. III. c. 194. It is entitled "An Act for better regulating the Practice of Apothecaries throughout England and Wales," and was composed in the days when Acts of Parliament were made as verbose as possible. In evidence of this we quote the preamble (which is also the first section) of the Act, reciting and confirming the charter of the Apothecaries' Company. It runs thus :—

Whereas His Majesty King James the First, by Letters Patent, under the Great Seal of Great Britain, bearing date the sixth day of December, in the fifteenth year of his reign, did for himself, his heirs and successors, grant unto William Besse, and divers other persons therein named, and to all and singular other persons whomsoever, brought up and skilful in the art, mystery, or faculty of apothecaries, and exercising the same art, mystery, or faculty, then being freemen of the mystery of grocers of the City of London, or being freemen of any other art, mystery, or faculty in the said City of London (so as they had been brought up and were expert in the art or mystery of apothecaries), that they, and all such men of the said art or mystery of apothecaries of and in the said City of London and suburbs of the same, and within seven miles of the said city, might and should be one body corporate and politic, in



substance, deed, and name, by the name of the Master, Wardens, and Society of the Art and Mystery of Apothecaries of the City of London and did ordain and declare, that by the same name they might have perpetual succession, and have, purchase, possess, enjoy, and retain manors, messuages, lands, tenements, liberties, privileges, franchises, jurisdictions, and hereditaments to them and their successors, in fee simple and perpetuity, or for term of year or years, or otherwise howsoever; and also goods and chattels, and all other things soever, of what name, nature, kind, quality, or sort soever they should be; and also that they might grant, demise, alien, assign, and dispose of manors, lands, tenements, and hereditaments, and do and execute all and singular other acts and things by the said name; and that by the said name of Master, Wardens, and Society of the Art and Mystery of Apothecaries of the City of London, they should and might be able to plead and be impleaded, and might have for ever a common seal, and the same seal at their pleasure from time to time might break, change, alter, and new make, as to them should seem best; and his said Majesty did, by his said Letters Patent, ordain and grant unto the said Master, Wardens, and Society of the Art and Mystery of Apothecaries aforesaid, certain ordinances, rules, and regulations, to be observed, kept, and maintained by them, as in the said Charter are more fully expressed: And whereas some of the clauses and provisions contained in the said recited Charter, so far as the same regard the said Society of Apothecaries, have been found inadequate for the purposes thereby intended, and it is therefore expedient that the same should be altered, varied, and enlarged, and further and other provisions made: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the said recited Charter of the fifteenth year of the reign of His Majesty King James the First, and all and every the powers, provisions, penalties, forfeitures, regulations, clauses, matters, and things therein contained (save and except such part or parts thereof as are hereby altered, varied, or repealed), shall be and the same is and are hereby declared to be in full force and virtue, and shall be as good, valid, and effectual to all intents and purposes whatsoever as if this Act had not been made.

Sections 2 and 3 give power to the Master and Wardens of the Society, or to persons properly qualified whom they may employ, not fewer than two in number at any time "at all seasonable and convenient times in the day-time" to "go and



enter into any shop or shops, house or houses, cellar or cellars " of any person using or exercising the art or mystery of apothecaries. They were to have the power to search, survey, prove, and determine if the medicines, simple, or compound they should there find were wholesome, meet, and fit for the cure, health, and ease of His Majesty's subjects; and if they should find any unlawful, deceitful, stale, out-of-use, unwholesome, corrupt, unmedicinable, pernicious, or hurtful, they might burn or otherwise destroy them. In the City of London, and within seven miles thereof (as empowered by the charter) these might be burned before the offender's door. This particular indignity is not authorised in the clause extending the power of inspection to all England and Wales. Fines of 5*l.* might be imposed on any person for the first offence reported by the inspectors, 10*l.* for the second offence, and 20*l.* for the third or any subsequent offence. The qualification of an inspector of shops and that of an examiner is defined by section 4 to be that he shall have been a member of the Society of not less than ten years' standing. Section 5 provides that if any apothecary shall knowingly, wilfully, and contumaciously refuse to make, mix, compound, prepare, give, apply, administer, or sell any medicines or medicinable compositions as directed by any prescription in the handwriting of any physician licensed by the Faculty of Physic in London, or by either of the Universities of Oxford or Cambridge, he shall be liable to a penalty of 5*l.* for the first offence, 10*l.* for the second offence, and for the third offence he shall forfeit his certificate, and be rendered incapable in future of using or exercising the art and mystery of an apothecary, and be liable to the penalty inflicted by this Act upon all who practise as such without a certificate, in the same manner as if such party so convicted had never been furnished with a certificate enabling him to practise as an apothecary; and such offender so deprived of his certificate shall be rendered and deemed incapable in future of receiving and holding any fresh certificate unless the said party so applying for a renewal of his certificate shall faithfully



promise and undertake, and give good and sufficient security, that he will not in future be guilty of the like offence.

Section 6 relates to the appointment of Deputy Master and Wardens; section 7 empowers the Master, Wardens, and Society of Apothecaries to execute the Act; section 8 stipulates for the manner in which certain acts of the Master and Wardens are to be sanctioned by general meetings; section 9 provides for the appointment of examiners; section 10 for the appointment of a chairman of the Board of Examiners; section 11 for an oath to be taken by each examiner; section 12 for annual elections and re-elections of the examiners; section 13 for appointments to fill vacancies; section 14 is the section which renders it unlawful for any person not properly qualified to practise as an apothecary; sections 15, 16, 17, 18, and 19 refer to the examinations of apothecaries and assistants; and section 20, under which prosecutions are generally undertaken, is as follows:—

And be it further enacted, That if any person (except such as are then actually practising as such) shall, after the said first day of August, one thousand eight hundred and fifteen, act or practise as an apothecary in any part of England or Wales without having obtained such certificate as aforesaid, every person so offending shall for every such offence forfeit and pay the sum of 20*l.*; and if any person (except such as are then acting as such, and excepting persons who have actually served an apprenticeship as aforesaid) shall, after the said first day of August, one thousand eight hundred and fifteen, act as an assistant to any apothecary to compound and dispense medicines without having obtained such certificate as aforesaid, every person so offending shall for every such offence forfeit and pay the sum of 5*l.*

Section 21 disqualifies any unlicensed person from recovering fees as an apothecary in a court of law. Section 22 allows re-examination of rejected candidates. Section 23 provides for a list of licensed persons. Section 24 gives the fees for certificates to the Society, and section 25 gives the money from penalties half to the Society and half to the informer. Section 26 regulates the means of recovering penalties. By section 27 a distress is not to be illegal from any formal



defect. Section 28 is the one which protects the rights of chemists and druggists, and is thus expressed :—

Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, to prejudice or in any way to affect the Trade or Business of a Chemist and Druggist, in the buying, preparing, compounding, dispensing, and vending Drugs, Medicines, and Medicinable Compounds, wholesale and retail; but all persons using or exercising the said Trade or Business, or who shall or may hereafter use or exercise the same, shall and may use, exercise, and carry on the same Trade or Business in such manner, and as fully and amply to all intents and purposes, as the same Trade or Business was used, exercised, or carried on by Chemists and Druggists before the passing of this Act.

By section 29 the rights of the Universities of Oxford and Cambridge and of the Royal Colleges of Physicians and Surgeons are protected. Section 30 requires that action shall be brought within six months of the alleged infringement of the Act; shall be brought in the county where the matter in dispute shall arise; that at least 21 days' notice shall be given; and that in case of defeat of the plaintiffs the defendants shall have double costs. Section 31 makes the Act a public one.

#### CHEMISTS AND THE APOTHECARIES ACT.

The Apothecaries Act, 1815, is the only statute which protects any part of medical practice. The Medical Act, 1858, and its subsequent legislative supplements stringently prohibit the assumption of any titles or descriptions untruly implying qualification or registration, but do not interfere with the practice of medicine or surgery by unqualified persons who make no misleading pretensions of fitness. But it remains illegal to "act or practise as an apothecary," and a number of cases against chemists and others have been prosecuted by the Apothecaries' Company. The definition of an apothecary's functions which the Courts have ever since acted upon was laid down by Mr. Justice Cresswell in the case of the Apothecaries' Company *v.* Lotinga, 2 M. & R., 495 (tried in 1843), that "an apothecary is a person who professes to



judge of internal disease by its symptoms, and applies himself to cure that disease by medicine. . . . But a chemist is one who sells medicines which are asked for."

In February, 1876, the Apothecaries' Company sued a London chemist and druggist in the Court of Exchequer for a penalty of 20*l.* for practising as an apothecary without a certificate. The 28th section of the Act was pleaded, and the defendant said that all serious cases were attended by his partner, a duly-qualified practitioner; that he never visited, but that in minor cases he had inquired the nature of the illness, and had given the most suitable medicine without consulting his partner. Baron Bramwell told the jury the Act was strict in its terms, and they were bound by it. If a man asked a chemist for something to cure a bad headache, and the chemist gave him a draught, he would be infringing the terms of the Act; but it would be unreasonable in such a case for the Apothecaries' Company to interfere. It was for the jury to say if the defendant had infringed the Act. The jury found for the plaintiffs, and the judge refused leave to move. The Apothecaries' Company subsequently prosecuted a chemist and druggist at Nottingham, and the defence was taken up in this and other cases by the Chemists' Trade Association. A fine was inflicted in the Nottingham County Court, and on appeal (Sir Henry James arguing for the appellants) the Court of Exchequer (Sir Fitzroy Kelly and Mr. Baron Cleasby) ordered the case to be retried in that court (*C. & D.* Dec. 15, 1877). The case was, therefore, heard before Mr. Baron Pollock on November 7, 1878, and is reported *C. & D.* Nov. 15, 1878. It was proved that a witness employed to get up the case had visited the defendant's shop, had complained of a sore throat and tightness at the chest, and sleeplessness. The defendant looked at his throat, gave him some medicine, and charged a shilling for it. For the defence, section 28 of the Apothecaries Act was chiefly relied on. A number of aged chemists were called to prove that to their knowledge such practices as that alleged by the prosecution were customary on the part of chemists and druggists before



1815. The judge, however, in summing up, said the business of a chemist and druggist was defined in the 28th section, and if chemists went beyond their rights before 1815 that did not justify them in doing so afterwards. He left it to the jury to say whether in the particular case before them the defendant had gone beyond the limits allowed him. The jury found for the defendant; but in this verdict they were no doubt influenced by the unsatisfactory evidence submitted for the plaintiffs. Other judges in other cases interpreted the law similarly. At the Birmingham County Court a prosecution of a chemist and druggist by the Apothecaries' Company was held over for two years pending the settlement of the last-quoted case. The chemist had given certain medicine to a young woman suffering from weakness, and had charged her a shilling for it. He admitted having asked her certain questions, though there was some dispute respecting the whole of the alleged consultation. He was fined 20*l.* (*C. & D.* July 15, 1879).

There can be little doubt that when the 28th section of the Apothecaries Act was agreed upon between the representatives of the apothecaries and of the chemists and druggists, it was understood by both parties that the latter were to be left practically outside the operation of the Act; and it is a singular fact that the clause drafted by the Company would have been more effectual for that purpose than the amended form of the clause proposed by the chemists and accepted by the apothecaries. This will be seen from the subjoined comparison of the two drafts of the clause:—

PROPOSED BY THE CHEMISTS

PROPOSED BY THE APOTHECARIES.

AND ADOPTED.

Provided always, and be it further enacted, that nothing in this Act contained shall extend or be construed to extend to prejudice or in any way affect the trade or business of a chemist and druggist

but all persons using or exercising the said trade, or who shall or may hereafter use or exercise the same, shall and may use, exercise, and	in the buying, preparing, compounding, dispensing, and vending drugs and medicinal compounds, wholesale and retail; but all
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PROPOSED BY THE APOTHECARIES.

PROPOSED BY THE CHEMISTS  
AND ADOPTED.

carry on the same trade in such manner, and as fully and amply to all intents and purposes as they might have done in case this Act had not been made.

persons using or exercising the said trade or business, or who shall or may hereafter use or exercise the same, shall and may use, exercise, and carry on the same trade or business in such manner and as fully and amply to all intents and purposes as the same trade or business was used, exercised, or carried on by chemists and druggists before the passing of this Act.

It is the circumstance that the trade or business of a chemist and druggist is so rigorously defined that has given chemists the disadvantage in the courts. When the aged witnesses came before Baron Pollock in the case referred to above, that learned judge said (in effect): "This evidence is of no value. The section defines the operations which a chemist and druggist may legitimately undertake. Prescribing is not one of these operations. If these gentlemen prove that chemists prescribed before 1815, that does not affect the case." It would have affected the case very materially though, if the clause proposed by the apothecaries had been adopted.



**FROM 1815 TO 1841.**

A BILL for establishing regulations for the sale of poisonous drugs was introduced into the House of Commons in 1819, and the Committee of the Association of Chemists and Druggists, which had done such good service in 1815, again came forward, and some of them gave evidence before the Committee of the House to which the Bill had been referred. Nothing came of the Bill, but the chemists' committee issued a recommendation to chemists and druggists generally, urging the importance of properly labelling dangerous drugs and poisons. Once more they were heard of in 1829-30, when proceedings under the Medicine-stamp Acts brought them together. In the latter year an attempt was made to unite for the purpose of obtaining some Act to regulate the business of pharmacy. Mr. John Savory was the leader in this movement, but it proved abortive.

From 1839 onwards attempts to pass a Medical Act became frequent, and in 1841 a very comprehensive Bill was introduced in the House of Commons by Mr. Benjamin Hawes, member for Lambeth, which contained a number of clauses seriously affecting chemists and druggists. It was proposed to form a Medical Council, which was to be a representative body, the apothecaries or general practitioners having a preponderating influence thereon. No franchise was proposed to be given to chemists and druggists, nor was there any provision for a representative of that body on the Council. But the Council thus formed was to have complete control over the business: it was to provide examinations, and to license suitable persons to practise as chemists and druggists. It was to be penal for any person other than such licensee,



or a medical man, to carry on the business of a chemist and druggist, who was defined as "a person who shall sell, deal in, mix, or dispense for sale any drug or medicine for the cure or relief of any bodily disorder, ailment, or illness."

To this Bill a number of London chemists organised a determined opposition. An influential meeting was held at the Crown and Anchor tavern, Strand, on February 15, 1841—Mr. J. Gifford in the chair—at which the following chemists were appointed a committee to watch and oppose the Bill:—

Allen, William, F.R.S.	Ellis, John	Lowe, William
Barron, Charles	Farmer, Robert	Mayhew, Samuel M.
Barry, John T.	Foulger, Samuel	Pigeon, Rich. Hotham
Battley, Richard	Gifford, Joseph	Simkin, Edward
Baxter, George	Green, Samuel	Smith, G. W.
Bell, Jacob	Herring, Thomas	Smith, Joseph
Briggs, Edwin	Herring, Thrower	Stampar, Ralph
Butler, Thomas	Horner, Edward	Toller, John
Davy, Charles	Ince, William	Walker, Thomas
De Casto, Samuel	Keating, Thomas	Waugh, George
Dinneford, Charles	Lescher, J. S.	Winstanly, Edward

Messrs. Alsop, Hudson, Morson, Savory, and Squire were subsequently added to the committee.

A Mr. Cooper, a medical practitioner, attended the meeting on behalf of Mr. Hawes, and endeavoured to prove to the chemists assembled that the effect of the Bill, if carried, would be to considerably advance their position and interests, but his arguments had but little effect. Subsequently some members of the committee had an interview with Mr. Hawes, who was very conciliatory, and who, in consequence of the opposition of the chemists and druggists, withdrew his first Bill, and substituted another, in which the objectionable clauses were expunged. It was considered, however, that the Bill was still indirectly prejudicial to chemists, and the trade opposed this Bill as they had done the earlier one. The second Bill was soon afterwards withdrawn.

The chemists and druggists, brought together by the



common bond of this threatened danger, determined to form an organisation for defence and advancement, and the

### PHARMACEUTICAL SOCIETY OF GREAT BRITAIN

was the outcome of the movement. Mr. Jacob Bell was the active spirit who induced this union, and who afterwards laboured with remarkable ability and devotion to cement it. The meeting at which the preliminary arrangements were ratified, and at which officers were elected, was held on July 1, 1841, Mr. William Allen, F.R.S., being chosen president. The Society was incorporated by Royal Charter on February 18, 1843.

### PREPARING FOR LEGISLATION.

IN 1844 the then Home Secretary, Sir James Graham, on behalf of the Government, introduced a Medical Bill, the principle of which was that which has governed all subsequent medical legislation. In expounding his measure, he said :—

He proposed no restriction on private medical practice; it would be open to every man in the kingdom—to every private individual if he thought proper—to engage in the practice of medicine. But he thought a wise Legislature should offer to the public some certain and accredited guarantee of the fitness, competency, skill, and knowledge of those practitioners who voluntarily submitted themselves to examination, and who, by examination, proved their competence and skill.

He proposed that these examined persons should be registered, and that from these alone should practitioners be selected for public appointments. It was intended thus to register three classes :—(1) Vendors of medicines, who might be licensed at 21 years of age; (2) surgeons, not to be licensed under 25 years of age; and (3) physicians, who should be 26 before they could be licensed. He intended to create a Council of Health, on which delegates from the various bodies interested were to be represented, and he would have made it penal, not for persons to practise medicine, but to pretend that they were registered. He proposed also to repeal the Apothecaries Act, and when a member asked if



those who compounded medicines would be allowed to prescribe, Sir James Graham said it would be for patients and families to decide whom they would call in. Some might place greater confidence in an unregistered than in a registered practitioner.

The Bill, if it could have been carried as the Home Secretary drafted it, would have anticipated the Medical Act of 1858 by a dozen years or more, and would have given to chemists and druggists, as "vendors of medicine," such a position as many of them now look longingly, but hopelessly, to as a possibility of the future. The Bill was opposed, for one reason or another, by nearly every branch of the medical profession, but it almost seemed for a time that the various and inconsistent objections urged against it would neutralise one another, and that the Bill had a fair chance of being enacted. But it is somewhat surprising to find the Pharmaceutical Society of that day placing itself in direct opposition to the measure. We are forced to the conclusion that somehow they never realised the prospect opened to them by Sir James Graham's proposal in regard to licensing qualified "vendors of medicine," and, feeling themselves secure in the exemption clause of the Apothecaries Act, they placed no value on the offered repeal of that restrictive measure. They were naturally anxious not to irritate any of their possible medical allies, and therefore, beyond discussing it, they for a time took no public part in the agitation which the Bill occasioned. In May, 1845, however, the Home Secretary, at the instance of the Society of Apothecaries, proposed the addition of the following clause to his Bill:—

And be it enacted, That every person who, after the passing of this Act, shall act or practise as an apothecary in any part of England or Wales, without having been registered by the said Council of Health as a General Practitioner in Medicine, Surgery, and Midwifery, shall for every such offence forfeit and pay the sum of 20*l*.

Meetings of chemists were held, and opposition was organised so effectively, that the Home Secretary consented to add a clause corresponding exactly with the 28th (Exemption)



Clause of the Apothecaries Act. The Bill went through many vicissitudes, and was several times recast, but its abandonment was finally signified in January, 1846.

#### THE PHARMACEUTICAL SOCIETY'S FIRST PROPOSAL.

At the fifth annual meeting of the Pharmaceutical Society in May, 1846, a draft Bill, which had been prepared by the Council after much consideration, was submitted for discussion. In its preamble the Bill declared the necessity for the proper education of dispensers of medicine and the registration of such as were qualified. For this purpose it was proposed to register within a certain period all persons then in business as chemists and druggists. A committee of not less than five chemists was to be appointed by the Secretary of State to carry out this duty. For the registration a fee of one guinea was to be imposed, but members of the Pharmaceutical Society, being already registered under a Royal Charter, were to be exempt from this charge. The registration being completed, the body of chemists and druggists thus enrolled would form a College of Pharmacy. They were to elect a council, and the council was to appoint a board of examiners. And then was to follow the penal clause, which was thus framed:—

And be it enacted, That any person (except any person established in business as a chemist, or chemist and druggist, at the time of the passing of this Act) not being duly registered under this Act as aforesaid, who shall, after the end of one year from the passing of this Act, engage in or exercise the business or calling of a chemist, or chemist and druggist, or who shall, by himself, or his assistants or apprentices, prepare, compound, or dispense for sale or gain on his own account, any medicines or medicinal substances, by or from any order, receipt, or prescription of any physician, surgeon, or other qualified medical practitioner, or any other person whatsoever, or who shall take or use the name or title of pharmaceutical chemist and druggist, or chemist, or chemist and druggist, or shall use, display, or exhibit any sign, token, or emblem, implying that he is a person registered under this Act, shall forfeit and pay for every such offence a sum not exceeding 10*l*.

It will be observed that at that time it was hoped to obtain a statute limiting to registered persons the right to “exercise



the business of a chemist and druggist," as well as the right to compound physicians' prescriptions.

A clause was introduced exempting from the operation of the Act all legally-qualified medical practitioners; and another clause exempting manufacturing chemists, the vendors of simple and uncompounded drugs, patent or stamped proprietary medicines, and horse or cattle medicines. It was considered advisable, it was explained, to introduce these exemptions in order to remove the opposition which would inevitably arise if any interference were attempted with any class or classes of persons having vested interests at stake, and not connected with the pharmaceutical body.

The scheme of a College of Pharmacy was proposed because it was considered that the Legislature would certainly not sanction any proposal to entrust both educating and examining powers to the Pharmaceutical Society in a restrictive measure of this character. But the suggestion to create a new body, with powers exceeding in some respects those of the established body, was viewed by many of the members with extreme jealousy. The outside college idea was, in consequence, ultimately abandoned, and when, after much delay, the Bill was published, in May, 1847, it was found to provide that the machinery of the Society itself should be employed for the registration and examination of chemists and druggists.

Meanwhile, Mr. Wakley, the founder of the *Lancet* and a well-known member of Parliament, was trying to legislate in regard to the medical profession, and his measure at first included proposals in regard to the registration of chemists and the prohibition of the sale by retail of certain poisons, except by licensed chemists and druggists. This Bill being referred to a committee, attempts were made to induce the committee to consider the position of pharmacists, but without avail. Efforts were also made by the Pharmaceutical Council to secure for their Bill the sympathy and support of the medical profession, and to a great extent these were successful. The College of Physicians were, indeed, a little too ready



to assist, their idea being that they should have some contro over the examinations. This, however, was not in accordance with the views of the chemists, who claimed the right of independence. Sir George Grey, the new Home Secretary, was interviewed and invited to take charge of the Society's Bill, but he contented himself with some cautious expressions of sympathy, and showed himself prudently reluctant to handle so thorny a subject. The discussions on Mr. Wakley's Medical Reform Bill resulted in the appointment of a special committee, which sat during 1848, but this committee persistently refused to take into consideration the condition of pharmacy in Great Britain.



### THE ARSENIC ACT.

IN the year 1849 considerable public attention was directed to the frequency of poisoning by arsenic. Several cases of murder came before the public, and it was believed that there was something like an epidemic of secret poisoning proceeding. In a letter to the *Times* the Rev. Robert Montgomery, the "Turkey carpet" poet made famous by Macaulay, denounced chemists as "venal poison-mongers" who "traffic for pence in murder." Many suggestions were made, some advocating that the retail sale of arsenic should be prohibited altogether, others that every sale should be reported at a police-station, and so on. The subject was taken up by the Provincial Medical and Surgical Society, which proposed that no druggist or shopkeeper should sell arsenic unless licensed to do so; that small quantities should only be sold combined with some material which would assure detection if mixed with food; that sales should be witnessed and entered in a book. After conferring with the Pharmaceutical Council these proposals were somewhat modified. It was proposed that the right of sale should be restricted to apothecaries and chemists and druggists, and that the poison should only be sold to male adults. The subject was delayed for some time, but in 1851 a Bill was introduced into the House of Lords by the Earl of Carlisle. In the first draft the limitation of sales to male persons of full age was proposed, and in that form it passed the House of Lords. But in the House of Commons this proposition was regarded as an infringement of women's rights, and the word 'male' was consequently omitted. The Bill of the House of Lords also required the purchaser to state if he was house-



holder or lodger, but this detail was also deleted. Ultimately the Bill passed in the following form:—

AN ACT TO REGULATE THE SALE OF ARSENIC. JUNE 5, 1851.  
(14 Vict., Cap. 13.)

Whereas the unrestricted sale of arsenic facilitates the commission of crime: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Every person who shall sell any arsenic shall forthwith, and before the delivery of such arsenic to the purchaser, enter or cause to be entered in a fair and regular manner in a book or books to be kept by such person for that purpose, set forth in the schedule to this Act, or to the like effect, a statement of such sale, with the quantity of arsenic so sold, and the purpose for which such arsenic is required or stated to be required, and the day of the month and year of the sale, and the name, place of abode, and condition or occupation of the purchaser, into all which circumstances the person selling such arsenic is hereby required and authorised to inquire of the purchaser before the delivery to such purchaser of the arsenic sold, and such entries shall in every case be signed by the person making the same, and shall also be signed by the purchaser, unless such purchaser profess to be unable to write (in which case the person making the entries hereby required shall add to the particulars to be entered in relation to such sale the words "Cannot write"), and, where a witness is hereby required to the sale, shall also be signed by such witness, together with his place of abode.

2. No person shall sell arsenic to any person who is unknown to the person selling such arsenic, unless the sale be made in the presence of a witness who is known to the person selling the arsenic, and to whom the purchaser is known, and who signs his name, together with his place of abode, to such entries, before the delivery of the arsenic to the purchaser, and no person shall sell arsenic to any person other than a person of full age.

3. No person shall sell any arsenic unless the same be before the sale thereof mixed with soot or indigo in the proportion of 1 oz. of soot or  $\frac{1}{2}$  oz. of indigo, at least, to 1 lb. of the arsenic, and so in proportion for any greater or less quantity: Provided always, that where such arsenic is stated by the purchaser to be required, not for use in agriculture, but for some other purpose for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold without such admixture in a quantity of not less than 10 lbs. at one time.



4. If any person shall sell any arsenic, save as authorised by this Act, or on any sale of arsenic shall deliver the same without having made and signed the entries hereby required on such sale, or without having obtained such signature or signatures to such entries as required by this Act, or if any person purchasing any arsenic shall give false information to the person selling the same in relation to the particulars which such last-mentioned person is hereby authorised to inquire into of such purchaser, or if any person shall sign his name as aforesaid as a witness to a sale of arsenic to a person unknown to the person so signing as witness, every person so offending shall for every such offence, upon a summary conviction for the same before two justices of the peace in England or Ireland, or before two justices of the peace or the sheriff in Scotland, be liable to a penalty not exceeding 20*l*.

5. Provided, that this Act shall not extend to the sale of arsenic when the same forms part of the ingredients of any medicine required to be made up or compounded according to the prescription of a legally qualified medical practitioner, or a member of the medical profession, or to the sale of arsenic by wholesale to retail dealers upon orders in writing in the ordinary course of wholesale dealing.

6. In the construction of this Act the word "arsenic" shall include arsenious acid and the arsenites, arsenic acid and the arseniates, and all other colourless poisonous preparations of arsenic.

*The Schedule.*

Day of Sale	Name and Surname of Purchaser	Purchaser's Place of Abode		Condition or Occupation	Quantity of Arsenic Sold	Purpose for which Required
Sept. 1, 1851	John Thomas	Hendon	Elm Farm	Farm labourer	5 lbs.	To steep wheat

*(Purchaser's signature.)*

*John Thomas.*

*(Witness.)*

*James Stone.*

*(Seller's signature.)*

*George Wood.*

*Or, if the purchaser cannot write, seller to put here the words, "Cannot write."*

*Grove Farm, Hendon.*

It is important to observe that the Arsenic Act has not been repealed by the subsequent Sale of Poisons Act. In selling arsenic it is not sufficient, therefore, to use the ordinary Poisons Book. The condition or occupation of the purchaser, and the address of the witness (if there be one) introducing the purchaser, must be added when arsenic is sold.



Particular observation of the requirement as to colouring the arsenic is also important. For agricultural purposes it is always illegal to sell uncoloured arsenic.

#### ILLUSTRATIVE PROSECUTIONS UNDER THE ARSENIC ACT.

In September, 1877, a Staffordshire chemist was prosecuted by the police for selling arsenic without fully observing the formalities required by the statute. The policeman in plain clothes who bought the arsenic was unknown to the seller, and the arsenic was supplied to him without a witness, on the representation that it was for a person well known to the vendor. The chemist was fined 1*l.* and costs. His counsel thereupon applied for a summons under section 4 of the Act against the policeman, who had admitted in cross-examination that his representations in regard to the person who wanted the arsenic were false. The magistrates' clerk advised the Bench that they must grant the summons. When the case was heard the magistrates said the Act had been broken and they were bound to convict. But they did not think defendant had had any illegal intention, and they would therefore only impose the nominal fine of 1*s.* and costs.

In 1869 a Shropshire chemist prosecuted a grocer residing in the same town as himself, under the Arsenic Act, for selling a packet of Cooper's "Sheep-dipping Powder," said to have contained 8 oz. of arsenic, without entering the sale in a book. The magistrates, after consideration, dismissed the summons, on the ground that the compound sold was not arsenic as described in the Act.

It has been reported, however, that unqualified persons have paid penalties for selling this same compound when proceedings have been commenced against them by the Pharmaceutical Council under the Pharmacy Act; and it can scarcely be doubted that the preparation is a preparation of arsenic within the meaning of the Pharmacy Act.

In August, 1885, a chemist at Guildford was prosecuted for having sold  $\frac{1}{2}$  oz. arsenic to a woman, who afterwards



killed herself with it, without having a witness present, and she being not known to the seller, nor introduced by a person known to the seller. The defence was that the purchaser was known by sight to the seller, though he did not know her name. The magistrates considered such knowledge insufficient, and imposed a fine of 2*l.* and costs. Defendant was also charged on a second summons with not having fulfilled the requirements of the Act in the registration of the sale. He had entered the false name and address which the woman had given him, and (using the poison-form as prescribed by the Pharmacy Act) had not entered purchaser's condition or occupation. Fined 1*l.* and costs.



## THE PHARMACY ACT, 1852.

THE foundation of the Pharmaceutical Society, and, to a great extent, its organisation, were the work of Mr. Jacob Bell, whose far-sighted policy was as disinterested as it was able. This gentleman set before him as his aim the rescue of pharmacy in Great Britain from the undefined position it occupied in his day, the reputation of the whole body of chemists and druggists being at the mercy of any shopkeeper who chose to assume the title. Mr. Bell aimed to elevate the whole body by a system of education corresponding to some extent to that which prevailed on the Continent, and as a complement to those efforts he perceived that no permanent good could be accomplished unless a legal status could be secured for the men thus expressly fitted for their work. The measure which Mr. Bell desired was indicated by the draft Bill which we have already summarised ; but jealousies within and objections without made it impossible to get that proposal even submitted to Parliament. Towards the end of 1850 Mr. Bell himself obtained a seat in the House of Commons, and he lost no time in bringing forward a Pharmacy Bill. The Bill, which he brought forward in 1851, was a much more moderate proposal than the one which had been drafted a few years previously, but it was too large to pass. It was proposed to register as pharmaceutical chemists all persons then carrying on the business of chemist and druggist in Great Britain, and to make it illegal afterwards to carry on business under that title. A final clause provided—

That the term and expression "pharmaceutical chemist" used and employed in this Act shall be construed to mean, and shall comprise and include, chemists and druggists, dispensing chemists, and every other name denoting a vendor and dispenser of medicines.



The clauses seem to have been purposely expressed in rather ambiguous terms. Apparently the intention was not to make it illegal to sell medicines, but to prevent the assumption by any unregistered person of any and every title which would indicate to the public that medicines were sold. The clause we have quoted, if adopted, would have been the occasion of unlimited confusion, and it is not quite surprising that the Bill met with a somewhat cold reception, Mr. Hume, the Radical, and Mr. Henley, the Tory, uniting in opposing it. The latter said, "The real state of the case was that a society, set up about seven years ago by Royal Charter, induced many chemists to pay two guineas a year for a fine label which they put in their windows with the hard words 'pharmaceutical chemist' on it; but he believed the bubble had burst, and that the same importance was not attached to the richly-framed label as the poor and ignorant were at first inclined to bestow. The Pharmaceutical Society, he believed, required some measure like the present to prop it up." On the suggestion of Sir George Grey, the Home Secretary, the Bill was read *pro formâ* a second time, on the understanding that Mr. Bell should introduce some amendment in it, but that it should not be proceeded with that session. The next session, after being read a second time, it was referred to a Select Committee, by which it was so altered as to provide nothing for the trade generally. No doubt it greatly strengthened the position of the Pharmaceutical Society, as it secured the protection of the titles "pharmaceutical chemist," "pharmaceutist," &c., and it gave legislative authority to the examinations and other transactions of the Society. But it left the business and title of chemist and druggist, including the sale of poisons, open to anyone without any restrictions except those provided by the Arsenic Act. Mr. Bell was keenly disappointed: his object from the first had been to incorporate and define the trade, rather than to create from among its members a select body. But he realised that the Bill, chipped and lopped as it was, was all that could be obtained then, and he accepted it



as an instalment. The Bill was finally passed on June 30, 1852, in the following form:—

AN ACT FOR REGULATING THE QUALIFICATIONS OF PHARMACEUTICAL  
CHEMISTS. JUNE 30, 1852.

(15 & 16 Vict., Cap. 56.)

Whereas it is expedient for the safety of the public that persons exercising the business or calling of pharmaceutical chemists in Great Britain should possess a competent practical knowledge of pharmaceutical and general chemistry and other branches of useful knowledge: and whereas certain persons desirous of advancing chemistry and pharmacy, and of promoting an uniform system of educating those who should practise the same, formed themselves into a Society called "The Pharmaceutical Society of Great Britain," which Society was on February 18, 1843, incorporated by Royal Charter, whereby it was provided that the said Society should consist of members who should be chemists and druggists who were or had been established on their own account at the date of the said charter, or who should have been examined in such manner as the Council of the said Society should deem proper, or who should have been certified to be duly qualified for admission, or who should be persons elected as superintendents by the Council of the said Society: and whereas it is expedient to prevent ignorant and incompetent persons from assuming the title of or pretending to be pharmaceutical chemists or pharmaceutists in Great Britain, or members of the said Pharmaceutical Society, and to that end it is desirable that all persons before assuming such title should be duly examined as to their skill and knowledge by competent persons, and that a register should be kept by some legally authorised officer of all such persons: and whereas for the purposes aforesaid, and for extending the benefits which have already resulted from the said charter of incorporation, it is desirable that additional powers should be granted for regulating the qualifications of persons who may carry on the business of pharmaceutical chemists: be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same—

*Charter dated February 18, 1843, confirmed, save as altered.*

1. That the said charter of incorporation granted to the said Society on February 18, 1843, save and except such part or parts thereof as are hereby altered, varied, or repealed, shall be and the same is hereby



confirmed and declared to be in full force and virtue, and shall be as good and effectual to all intents and purposes as if this Act had not been passed.

*Power to Council to alter By-laws, provided they are approved by a General Meeting of Society and the Secretary of State.*

2. The Council of the said Pharmaceutical Society shall be and the same are hereby authorised and empowered to alter and amend the by-laws of the said Society made and established under or in pursuance of the said charter of incorporation, and to make and establish such new or additional by-laws as they shall deem proper and necessary for the purposes contemplated by the said charter or by this Act: provided always, that all such original by-laws, and all altered, amended, or additional by-laws, shall be confirmed and approved by a special general meeting of the members of the said Pharmaceutical Society, and by one of Her Majesty's Principal Secretaries of State: [\* provided also, that the existing by-laws of the said Society shall continue in force until the next annual meeting of the said Society to be held in the month of May, 1853.

3. At all meetings of the said Society at which votes shall be given for the election of officers all members entitled to vote may give their votes either personally, or, in cases of residence exceeding five miles from the General Post Office, St. Martin's-le-Grand, London, by voting-papers authorised by writing, in a form to be defined in the by-laws of the said Society, or in a form to the like effect, such voting-papers being transmitted under cover to the secretary not less than five clear days prior to the day on which the election is to take place.\*]

*Council to appoint Registrar, &c.*

4. The Council of the said Pharmaceutical Society shall [\* within three calendar months after the passing of this Act \*] appoint a fit and proper person as a registrar under this Act, and the Council of the said Society shall have the power to remove the said registrar, or any future registrar to be appointed under this Act, from the said office, and from time to time to appoint a new registrar in the room of any registrar who may die, or retire, or be removed from office as aforesaid, and also to appoint and remove from time to time a deputy registrar, and such clerks and other subordinate officers as may be requisite for carrying out the purposes of this Act, and also to pay suitable salaries to the said registrar, deputy registrar, clerks, and officers.



*Registrar to make Registers of Members of Society, &c., and to keep an Index and Books, as may be required.*

5. The registrar to be appointed under or by virtue of this Act shall from time to time make out and maintain a complete register of all persons being members of the said Society, and also of all persons being associates and apprentices or students respectively, according to the terms of the charter of incorporation, and shall keep a proper index of the register, and all such other registers and books as may be required by the Council of the said Society, and may be necessary for giving effect to the by-laws of the said Society and to the provisions of this Act.

*All Members, Associates, &c., of the Society, at the passing of this Act, entitled to be Registered.*

6. All such persons as shall at the time of the passing of this Act be members, associates, apprentices, or students of the said Pharmaceutical Society of Great Britain, according to the terms of the said charter of incorporation, shall be registered as pharmaceutical chemists, assistants, and apprentices or students respectively.

*Registrar bound to Certify, &c., and his Certificate good Evidence in absence of the Contrary.*

7. The registrar to be appointed under or by virtue of this Act shall be bound, on the application of any person paying 1s., to certify under his hand whether or no any person whose name and address shall be furnished to him appears in the said register or is a member of the Pharmaceutical Society of Great Britain or not; and the certificate of such registrar, signed by the said registrar, and countersigned by the president or two members of the Council of the said Society, shall, in the absence of evidence to the contrary, be sufficient evidence of the facts therein stated up to the date of the said certificate.

*Persons appointed under Charter or By-laws, or this Act, to conduct Examinations.—Power to Examiners to grant Certificates.*

8. All such persons as shall from time to time be appointed under or in pursuance of the said charter of incorporation or the by-laws thereof, or under this Act, shall be and the same are hereby declared to be fit and proper persons to conduct all such examinations as are provided for or contemplated by this Act, and shall respectively have full power and authority, and are hereby authorised and empowered, to examine all persons who shall present themselves for examination under the provisions of this Act in their knowledge of the Latin



language, in botany, in materia medica, and in pharmaceutical and general chemistry, and such other subjects as may from time to time be determined by any by-law; provided always that such examinations shall not include the theory and practice of medicine, surgery, or midwifery; and the said examiners are hereby empowered to grant or refuse to such persons, as in their discretion may seem fit, certificates of competent skill and knowledge and qualification to exercise the business or calling of pharmaceutical chemists, or, as the case may require, to be engaged or employed as students, apprentices, or assistants respectively.

*Examiners to be Appointed for Scotland.*

9. And to enable the said Society to provide for the examination in Scotland of such students, apprentices, or assistants in Scotland as may desire to be examined there, it shall be lawful for the Council of the Society, and they are hereby required, to appoint such fit and proper persons in Scotland, to meet in Edinburgh or Glasgow, or such other place or places as the Council may think desirable, and to conduct there all such examinations as are provided for and contemplated by this Act, with such and the like powers and authorities in respect thereof as are herein conferred, and to grant to the persons to be so examined such and the like certificates as are hereinbefore specified and referred to, or to refuse the same; and all the provisions of this Act shall be equally applicable to the examiners, examinations, and parties examined in Scotland as to the examiners, examinations, and parties examined in England.

*Persons who have obtained Certificates entitled to be Registered.—Persons registered as Pharmaceutical Chemists eligible to be Members.—Eligibility of Persons registered as Assistants, &c.*

10. Every such person who shall have been examined by the persons appointed as aforesaid, and shall have obtained a certificate of qualification from them, shall be entitled to be registered by the registrar according to the provisions of this Act, upon payment of such fee or fees as shall be fixed by the by-laws; and every such person duly registered as a pharmaceutical chemist shall be eligible to be elected as a member of the said Society; and every such person duly registered as an assistant shall be eligible for admission as an associate of the said Society; and every such person duly registered as a student or apprentice to a pharmaceutical chemist shall be eligible for admission into the said Society, according to the by-laws thereof.



*Exceptions.*

11. That no person who is a member of the medical profession, or who is practising under right of a degree of any university, or under a diploma or licence of a medical or surgical corporate body, shall be entitled to be registered under this Act; and, if any registered pharmaceutical chemist shall obtain such diploma or licence, his name shall not be retained on the said register during the time that he is engaged in practice as aforesaid.

*Persons not Duly Registered shall not assume or use Name or Title of Pharmaceutical Chemist, or any Name, Title, or Sign implying the Same.—Penalty on Persons Offending.—Penalties: how Recoverable in England and Wales; In Scotland.*

12. From and after the passing of this Act it shall not be lawful for any person, not being duly registered as a pharmaceutical chemist according to the provisions of this Act, to assume or use the title of pharmaceutical chemist or pharmacist in any part of Great Britain, or to assume, use, or exhibit any name, title, or sign implying that he is registered under this Act, or that he is a member of the said Society; and if any person, not being duly registered under this Act, shall assume or use the title of pharmaceutical chemist or pharmacist, or shall use, assume, or exhibit any name, title, or sign implying that he is a person registered under this Act, or that he is a member of the said Society, every such person shall be liable to a penalty of 5*l.*; and such penalty may be recovered by the registrar to be appointed under this Act, in the name and by the authority of the Council of the said Society, in manner following, that is to say: In England or Wales, by plaint under the provisions of any Act in force for the more easy recovery of small debts and demands: In Scotland, by action before the court of session in ordinary form, or by summary action before the sheriff of the county, or in the royal burghs before the magistrates of the burghs where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable in the penalty or penalties aforesaid, as also in expenses; and it shall be lawful for the sheriff or magistrate, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: Provided always that it shall be lawful to the sheriff or magistrate, in the event of his dismissing the action and assoilzieing the defender, to



find the complainer liable in expenses; and any judgment so to be pronounced by the sheriff or magistrate in such summary application shall be final and conclusive, and not subject to review, by advocacy, suspension, reduction, or otherwise.

*Limitation for Recovery of Penalties, &c.*

13. Provided always that no action or other proceeding for any offence under this Act shall be brought after the expiration of six months from the commission of such offence; and in every such action or proceeding the party who shall prevail shall recover his full costs of suit or of such other proceedings.

*Application of Penalties.*

14. All and every sums and sum of money which shall arise from any conviction and recovery of penalties for offences incurred under this Act shall be paid as the Commissioners of Her Majesty's Treasury shall direct.

*Registrar Falsifying Register, &c., Guilty of a Misdemeanour.*

15. If any registrar under this Act shall wilfully make or cause to be made any falsification in any matters relating to any register or certificate aforesaid, every such offender shall be deemed guilty of a misdemeanour.

*Any Person Wilfully Procuring False Certificate Guilty of a Misdemeanour.*

16. If any person shall wilfully procure by any false or fraudulent means a certificate purporting to be a certificate of registration under this Act, or shall fraudulently exhibit a certificate purporting to be a certificate of membership of the Pharmaceutical Society, every such person so offending shall be adjudged guilty of a misdemeanour.

It is this Act (section 12) which preserves to pharmaceutical chemists the title of pharmaceutical chemist, pharmacist, or other names, titles, or signs implying registration under this Act.

ACTION UNDER THE 1852 ACT.

After the passing of the Act the Council, supported by a special meeting of the Society, resolved that it was desirable to extend the basis of the Society's constitution by admitting as members (1) such chemists as had been in business before



the charter, and (2) such chemists as had been in business before the passing of the Act, and whose standing should be certified by two other chemists in each case, who should be approved by the Council, and who should be willing to pay certain fees. The Council considered that they had power to admit as members the first class of chemists under their existing by-laws made under the charter and expressly confirmed by sections 1 and 2 of the Act, and under the authority of section 2 they passed a temporary by-law to enable them to admit chemists of the second class to membership. Their policy was opposed by a small party led by Mr. Dickenson, a member of the Council. The dissentients were outvoted, and they then commenced proceedings by applying for a mandamus calling upon the registrar to furnish a proper register, they alleging that the register which he had compiled was not in accordance with the statute. Pending the hearing of the case Lord Palmerston, the Home Secretary, had, in accordance with the Act, signified his approval of the new by-law; subject, however, to its legality being established in the court of law. The case was argued in November, 1854, by Sir Fitzroy Kelly on behalf of the dissentients, and by Mr. Bramwell for the registrar. It was stated that the validity of the election of over 600 members was in question, the complaint naming William Murdock as the type of class 1, and John Abraham as having been illegally registered under the new by-law. After a very lengthy argument Lord Campbell gave judgment on January 26, 1855, asserting the validity of all the elections.

The dispute was carried by the complainant to a Court of Error, and after being re-argued, the Court, consisting of eight judges, unanimously confirmed Lord Campbell's judgment.

#### HOW TO PRONOUNCE "PHARMACEUTICAL."

It was in an early stage of this trial that a judicial decision was given in regard to the pronounciation of the word "pharmaceutical." The Attorney-General, who led for the registrar, was asked by Lord Campbell why he pronounced the "c"



soft. He replied that it came from the Greek, but when it became English it must be subject to English rules. He had, however, been cautioned, he said, by some of his learned friends as to the pronunciation. Sir Fitzroy Kelly said he would bow to the opinion of his learned friends, who were so much superior to him in learning as in everything else. The Attorney-General said that was rather too bad, as it was Sir F. Kelly himself who had cautioned him. Sir F. Kelly said whatever his lordship should say was the pronunciation should be the mode to be adopted. Lord Campbell replied, "Then let it be soft. Be it so."



### ABORTIVE POISONS BILLS.

THE public mind had been much excited by several notorious poisoning cases, and in May, 1857, the Government introduced a "Bill to restrict and regulate the Sale of Poisons." By this Bill it was proposed to repeal the Sale of Arsenic Act, and to apply its provisions generally to a great number of other dangerous substances. No poison was to be sold to anyone other than a person of full age; a witness knowing the purchaser was to be present; and the purchaser was to produce a certificate signed either by the clergyman of the parish or district, by a legally qualified medical practitioner, or by a Justice of the Peace for the county or place, stating that the purchaser was known to the person signing such certificate, and might be trusted with the poison. A full entry of the sale was to be made. Packets containing poisons were to be wrapped in tinfoil as well as in paper, and bottles were to have the word "Poison" moulded upon them. Solid poisons were to be coloured with soot or indigo, and liquid poisons with solution of archil, unless the certificate declared that such colouring would render the poison unfit for the purpose for which it was required. Vendors of poisons were to keep them under lock and key, and in certain vessels; and if they should be convicted of any failure to carry out the provisions of the Bill, they were to be fined 20*l.*, and on a second offence were to be disabled for ever from selling poisons or carrying on the business of a chemist and druggist. Sales to photographers, bird-stuffers, artists' colourmen, and veterinary surgeons, &c., as well as sales by wholesale to retail dealers, were to be exempt, and so were sales of medicine compounded on the prescription of qualified medical practitioners.



This extraordinary Bill was introduced in the House of Lords by Lord Granville, as Lord President of the Council, and, although the Pharmaceutical Society pointed out, by deputation and petition, its impracticability, some progress was made with it. It was referred to a Select Committee, and the evidence of certain experts was taken. The Select Committee proposed additions to the Bill, providing that poisons should be sold only by medical practitioners or by licensed vendors; and it was provided that this licence should be dependent upon an examination to be instituted for the purpose. The examiners to be appointed were to be six in number, three of them to be appointed by the Queen, and one each by the College of Physicians, the Society of Apothecaries, and the Pharmaceutical Society. These examiners, or any two of them, were to be authorised to enter and search any shop where poisons were sold to see if the regulations as to storage were duly obeyed. In this revised edition of the Bill the exemption of patent medicines from its operation again appeared.

The Bill was withdrawn for the moment, but was reintroduced in the next session of Parliament. Before it could be submitted for discussion, however, the Government of which Lord Palmerston was the head was defeated and resigned office, and the Sale of Poisons Bill was of course sunk in the general wreck.

Lord Derby, who succeeded to the Premiership, lost little time in producing a Bill on the same lines, but with some of the provisions modified.

The new Bill proposed to recognise medical practitioners and pharmaceutical chemists as vendors of poisons, but would have required all other dealers to submit to a special examination. Persons who could satisfy the examiners that they had been in business for a year as chemists and druggists were to be exempt from examination at the time, but would have to come up for a renewed licence in five years. The certificate to the purchaser could be given by any householder, and the examiners were to be three only—the College of Physicians, the Society of Apothecaries, and the Pharmaceutical Society



appointing one each. The scale of penalties and the list of exemptions was also revised. Lord Derby refused to consider the protests of the Pharmaceutical Society, and carried the Bill through the House of Lords with a high hand. But when it reached the Commons in July, 1858, there was such a storm of opposition from chemists all over the country that the Home Secretary had to speedily withdraw it.

Before the end of the year, however, a terrible poisoning calamity occurred at Bradford. A druggist in that locality had supplied a local confectioner with arsenic in mistake for "daff"—a sulphate of lime prepared from burnt spar. The druggist's boy had mistaken the cask. It appeared that the arsenic cask was labelled on the top, but was standing in the store-room bottom upwards, so that the label was towards the floor. The confectioner used the arsenic in the manufacture of peppermint lozenges, which were supplied to another man and sold in the market. Twenty persons lost their lives and over 200 were made seriously ill. This occurrence naturally excited the public mind, and the Government were almost compelled to again take in hand the regulation of the sale of poisons. A new Bill was brought forward early in the session of 1859, this time in the House of Commons and in the charge of Mr. Spencer Walpole, Home Secretary. In this Bill many of the proposals of its predecessors to which the strongest objections had been taken were modified or abandoned. There was no mention of a purchaser's certificate nor of the examining board. The schedule of poisons was much reduced, and was limited to the following:—

Arsenic and its compounds	Essential oil of bitter almonds,
Corrosive sublimate	unless deprived of its prussic
The poisonous vegetable alkalis and their salts	acid
Prussic acid	Oxalic acid
Cyanides of potassium	Nux vomica
Cantharides	Cocculus indicus
Aconite and its preparations	Opium, crude, or in tincture, extract, or powder

Provisions for labelling vessels or packets containing any



of these substances, in stock, and when sold, and entry of sales, were the features of this Bill. Purchasers were to be of full age and were to be accompanied in each case by a witness, also of full age. Power was given to constables on the order of magistrates to search any shop where poisons were sold, and penalties not exceeding 5*l.* for the first offence, 20*l.* for the second, and 100*l.* for any subsequent offence were prescribed in the case of conviction of any breach of the requirements of the Act.

The Pharmaceutical Council urged on the Home Secretary the importance of recognising, in any Bill for regulating the sale of poisons, qualification on the part of vendors; Mr. Walpole admitted the importance but refused to add any clauses enforcing this to his present Bill. He promised to deal with that part of the subject in a separate measure. The Bill passed through Committee of the House of Commons, but before a third reading could be obtained the Government were defeated on the Reform Bill they had introduced, and Parliament was dissolved. Before this happened, however, they had formally withdrawn their Sale of Poisons Bill, the opposition to which was growing.

There was a suspension of Poisons Bills for a few years, but in the session of 1863 Lord Raynham introduced into the House of Commons a short one entitled "A Bill for the Prevention of Accidental Poisoning." By this it was proposed simply that

No substance of a poisonous nature or calculated to injure or endanger human health or life if taken internally shall be sold or exposed for sale by retail in any paper or other packet, but only in a glass phial or bottle of an hexagonal shape, of which five sides shall be fluted and on the remaining side thereof a label shall be affixed with the word "Poison" and directions for use distinctly marked thereon.

Contraventions were to be punishable by a fine not exceeding 5*l.*; and in the case of second offences, the offender's name, &c., might be published in newspapers. The Bill was rejected when a second reading was asked for.



## POISONED GRAIN PROHIBITION ACT.

IN the same session (1863) a Bill was introduced to prohibit the sale and use of poisoned grain or seed. After much reduction from its original dimensions it passed in the following form:—

AN ACT TO PROHIBIT THE SALE AND USE OF POISONED  
GRAIN OR SEED. JULY 28, 1863.

26 & 27 Vict., Cap. 113.

Whereas it is expedient to prohibit the sale and use of poisoned grain or seed: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Short Title of Act.*

1. This Act may be cited for all purposes as "The Poisoned Grain Prohibition Act, 1863."

### *Penalty for Selling Poisoned Grain, Seed, or Meal.*

2. Every person who shall offer or expose for sale or sell any grain, seed, or meal which has been so steeped or dipped in poison, or with which any poison or any ingredient or preparation has been so mixed as thereby to render the same poisonous and calculated to destroy life, shall in either case for every such offence, upon summary conviction, as hereinafter provided, forfeit any sum, not exceeding 10*l*.

### *Penalty for Sowing, &c., Poisoned Grain, Seed, or Meal.*

3. Every person who shall knowingly and wilfully sow, cast, set, lay, put, or place, or cause to be sown, cast, set, laid, put, or placed into, in, or upon any ground or other exposed place or situation, any such grain, seed, or meal which has been so steeped or dipped in poison, or with which poison or any ingredient or preparation has been so mixed as thereby to render such grain, seed, or meal poisonous and calculated



to destroy life, shall, upon a summary conviction thereof as hereinafter provided, forfeit any sum not exceeding 10*l*.

*Solutions or Infusions, &c., allowed for Use in Agriculture.*

4. Nothing in this Act shall prohibit the offering or exposing for sale or selling or the use of any solution or infusion, or any material or ingredient for dressing, protecting, or preparing any grain or seed for *bonâ fide* use in agriculture only, or the sowing of such last-mentioned grain or seed so prepared.

*Recovery of Penalties.—Application of 11 & 12 Vict. c. 43, and 14 & 15 Vict. c. 93, to this Act.—Informer (not a constable) entitled to Moiety of Penalty.—Indemnity to Witnesses, &c.*

5. All penalties imposed by this Act may be recovered in England and Ireland before two justices of the peace, and in Scotland before two justices of the peace or the sheriff; and for that purpose in England and Scotland the provisions of the Act of the eleventh and twelfth years of Her present Majesty, chapter 43, and in Ireland the Petty Sessions (Ireland) Act, 1851, shall extend and apply to this Act and to all proceedings in relation thereto; and it shall not in any such proceedings be necessary to allege or prove the ground or other place where an offence is committed to be the property of or occupied by any person: Provided always that the convicting justices or sheriff may, if they or he shall think fit, award to the informer or prosecutor (not being a police-constable or peace-officer) in any such proceedings any portion not exceeding one moiety of any penalty recovered under the aforesaid enactments: Provided also that every informer or prosecutor, and every person who shall give evidence against any other person proceeded against under this Act shall be freed and discharged from any such penalty which he may have incurred for or by reason of his having participated or aided in the commission of the offence with respect to which he shall so inform or prosecute or give evidence, provided the information against such other person has been laid, or such evidence has been given, before the laying of any information (if any) against such informer, prosecutor, or witness for the recovery of any penalty he may have so incurred.

A woman was summoned under the Poisoned Grain Act for having laid down some bread poisoned with phosphor paste, for the purpose of poisoning her neighbour's chickens. For the defence it was argued that bread was not "grain, seed, or meal," as stated in the Act. The defence was successful.—CHEMIST AND DRUGGIST, September 12, 1891.



**POISONED FLESH PROHIBITION ACT.**

A BILL complementary to the above was passed in the next year (1864), entitled

AN ACT TO PROHIBIT THE PLACING OF POISONED FLESH AND POISONOUS MATTERS IN PLANTATIONS, FIELDS, AND OPEN PLACES, AND TO EXTEND THE POISONED GRAIN PROHIBITION ACT, 1863. JULY 29, 1864.

27 & 28 Vict., Cap. 115.

Whereas it is expedient to extend the provisions of an Act passed in the Session of Parliament held in the twenty-sixth and twenty-seventh years of the reign of Her present Majesty, intituled "An Act to Prohibit the Sale and Use of Poisoned Grain or Seed": Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Short Title.*

1. This Act may be cited for all purposes as "The Poisoned Flesh Prohibition Act, 1864."

*Penalty for Placing Poisoned Flesh in Fields, &c.*

2. Every person who shall knowingly and wilfully set, lay, put, or place, or cause to be set, laid, put, or placed in or upon any land any flesh or meat which has been mixed with or steeped in or impregnated with poison or any poisonous ingredients so as to render such flesh or meat poisonous and calculated to destroy life, shall, upon a summary conviction thereof, forfeit any sum not exceeding 10*l.*, to be recovered in the manner provided for by the Poisoned Grain Prohibition Act, 1863: Provided always that nothing herein contained shall prevent owners or occupiers of land in Ireland from laying or causing to be laid any poisonous matter as hereinbefore described, after a notice has been posted in a conspicuous place, and notice in writing has been given to the nearest constabulary station.



*Not to apply to Occupier placing Poisoned Preparation for  
Destruction of Vermin.*

3. Nothing in this Act shall make it unlawful for the occupier of any dwelling-house or other building, or the owner of any rick or stack of wheat, barley, oats, beans, peas, tares, seeds, or of any cultivated vegetable produce, to put or place or cause to be put or placed in any such dwelling-house or other building, or in any enclosed garden attached to such dwelling-house, or in the drains connected with any such dwelling-house, provided that such drains are so protected with gratings or otherwise as to prevent any dog from entering the same, or within such rick or stack, any poison or poisonous ingredient or preparation for the destruction of rats, mice, or other small vermin.

*As to Application of Act.*

The Act shall not apply to any grain, seed, or meal within the provisions of the Poisoned Grain Prohibition Act, 1863, and the provisions of the fifth section of the said Poisoned Grain Prohibition Act, 1863, shall apply to any proceedings instituted under this Act, and shall come into operation on October 1, 1864.



## EXEMPTION OF PHARMACEUTICAL CHEMISTS FROM JURY SERVICE.

IN 1862 a Bill was introduced into the House of Commons having reference to the mode of summoning juries. Mr. J. J. Powell, M.P. for Glasgow, moved in committee the introduction of a clause that—

All persons duly registered as pharmaceutical chemists according to the provisions of an Act intituled "An Act for Regulating the Qualifications of Pharmaceutical Chemists" shall be and are hereby absolutely freed and exempted from being returned and from serving upon any juries or inquests whatsoever, and shall not be inserted in the lists to be prepared by virtue of the principal Act or of this Act.

Mr. Western Wood, M.P. for Marylebone, on behalf of the United Society of Chemists and Druggists, moved for a similar exemption in favour of all chemists and druggists.

These motions were opposed by Sir George Grey, the Home Secretary, on the ground that the Bill had reference to the mode of summoning juries, and he urged that the proposal to exempt pharmaceutical chemists should be made in a Bill specially drawn for that purpose, though he intimated that he should oppose such a Bill, as the exemption would withdraw a large number of intelligent men from the jury lists. In consequence of this opposition Mr. Powell and Mr. Wood withdrew their motions. When the Bill came out of the House of Commons, however, it was discovered that a clause had been agreed to without opposition exempting from jury service "managing clerks to attorneys, solicitors and proctors actually practising, and all subordinate officers in gaols and houses of correction." Consequently the Council of the Pharmaceutical Society petitioned the House of Lords, and there the rejected clause applying to pharmaceutical chemists



was added to the Bill without opposition. Exemption of veterinary surgeons from jury service was also included. The Bill came back to the House of Commons, and Sir George Grey again opposed the exemption. The contest was very close, 53 members voting with the Home Secretary and 53 against him. The Speaker gave his casting vote against the confirmation of the Lords' amendment. The Bill went back to the House of Lords, and Lord Wensleydale moved that the amendment in respect of the exemption of pharmaceutical chemists be insisted upon. He said it only removed some 2,000 persons from the jury lists, and they were persons whose duties were very responsible and delicate. It was not proposed to exempt all the 40,000 persons employed as chemists and druggists. No doubt the latter did make up prescriptions, but they were not examined or registered men. The House of Lords agreed to insist upon this amendment, but they abandoned the proposal in reference to veterinary surgeons. When the Bill went back to the Commons Sir George Grey intimated that he would not further contest the point, but a private member, Mr. Edward Craufurd, this time moved the rejection of the Lords' amendment. Sir George Grey and Sir G. C. Lewis supported him, arguing that if pharmaceutical chemists were exempted, there were stronger grounds for exempting chemists and druggists generally. The House, however, adopted the clause by 45 votes to 12. The minority included Lord Palmerston, Mr. Gladstone, Sir George Grey, Sir G. C. Lewis, Sir Roundell Palmer, and Mr. Grant Duff.

The section of the Juries Act, 1862 (25 & 26 Vict. c. 107), exempting pharmaceutical chemists from service runs thus:—

All registered Pharmaceutical Chemists actually in practice are absolutely freed and exempted from being returned and from serving upon any juries or inquests whatsoever, and shall not be inserted in the lists to be prepared by virtue of the principal Act [6 George IV. c. 50] or this Act.

It is, however, provided by the Juries Act, 1870 (33 & 34 Vict. c. 77), that

No person whose name shall be on the Jury Book as a juror shall be



entitled to be excused from attendance on the ground of any disqualification or exemption, other than illness, not claimed by him at or before the revision of the list by the justices of the peace.

It is therefore necessary that Pharmaceutical Chemists should see that their names are not on the lists. Jury lists are suspended on church doors on the first three Sundays in September, and the Petty Sessions at which the lists are revised are held within the last seven days of September.

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A pharmaceutical chemist acting as the principal of a college of pharmacy, finding his name on a jury list, appealed to have it struck off, and his case was heard at the Surrey Sessions House. After inquiries, the magistrate decided that the name must remain on the list, as the appellant was not actually in practice as a pharmaceutical chemist.—CHEMIST AND DRUGGIST, September 29, 1888.

Notwithstanding the definite expression of the exemption in the Juries Act, 1862, coroners have sometimes held that service on coroners' juries was not affected by the statute. In 1891 the Coroner for the Kingston Division of the County of Surrey fined a solicitor's managing clerk 5*l.* for declining to serve upon a jury. The latter claimed exemption under the Jurors Act, 1870. The case was brought before the Divisional Court, consisting of Justices Hawkins and Wills, who quashed the order of the Coroner, and Mr. Justice Hawkins, in giving judgment, said:—"It is my opinion that the exemptions in sec. 2 of 6 George IV. c. 50 apply as much to coroners' juries as to others. The language of that section is clear, and there is no reason to suppose that coroners' juries are not intended to be affected—otherwise what would be the force of the words 'shall be and are absolutely exempt from serving on any jury whatsoever'? This is no less an exemption because coroners' juries are not bound by the ordinary rules of summoning."



## THE PHARMACY ACT, 1868.

### PRELIMINARY MOVEMENTS.

IN 1863 a scheme was put forward by a committee of the General Medical Council aiming, by a recasting of the Medical Act of 1858, to bring pharmaceutical "education, examination, and practice" under the control of that body. It was proposed by the Bill which was drafted to provide (1) a general system of pharmaceutical education and examination to be regulated by the Medical Council; (2) registration of all persons qualified by such examinations to practise pharmacy; (3) restriction to such persons of the right to compound prescriptions of physicians and surgeons; (4) appointment of pharmaceutical inspectors; (5) prohibition of the sale of all secret remedies, and the imposition of a penalty for selling any patent or quack medicine unless a sworn certificate of its composition were exhibited in the shop where it was sold.

This Bill, which never got into Parliament, and, indeed, was never adopted definitely by the Medical Council itself, aroused some excitement and alarm among chemists and druggists. To a certain extent the Pharmaceutical Council approved of the proposals; their journal urging that at least with proper amendments they would benefit both the trade and the public. There had recently, however, come into existence another society, calling itself the United Society of Chemists and Druggists (founded in 1860), and it was one of the firmest planks of the platform of this body to resist any medical interference with the drug trade. At the outset the United Society did not assume an inimical position in regard to the Pharmaceutical Society; but the success of the latter body and their own defeat over the juries exemption clause



tended to embitter the United Chemists and occasioned some asperity and animosity. The leaders of the society were aware that the true reason of their failure was the undefined position of a chemist and druggist. Had their clause been accepted, it would have been open to any citizen to free himself from the claims of jury service by selling a few drugs and calling himself a "chemist and druggist." It was, therefore, perceived that no gain of this kind could be secured until the trade was in some way incorporated and its members registered. To accomplish these results, an Act of Parliament was necessary, and the efforts of the executive of the United Society were directed towards that end. This movement aroused in turn the Pharmaceutical Society. The subject was discussed at meetings and by correspondence, and the outcome of all was that a Bill from each society was submitted to the House of Commons.

The Pharmaceutical Society's Bill, which was taken in hand by Sir Fitzroy Kelly, provided that after a certain date

It shall not be lawful for any person to carry on the business of a chemist and druggist in the keeping of open shop for the compounding of prescriptions of duly qualified medical practitioners in any part of Great Britain unless such person shall be a pharmaceutical chemist within the meaning of the Pharmacy Act, or shall be duly registered as a chemist and druggist under this Act.

All persons in business as chemists and druggists before the date fixed as above were to be entitled to registration; in the future the Minor examination of the Society was to be an essential preliminary to registration. It was provided that the use of the title "pharmaceutical chemist," "chemist and druggist," "chemist," or "druggist," or any name, title, addition, or description implying registration, or keeping "open shop for the compounding of the prescriptions of any duly qualified medical practitioner," should render any unregistered person liable to a penalty of 5*l*. The rights of medical practitioners were to be reserved; the benefits of the Pharmaceutical Society's Benevolent Fund were to be available for the relief of all registered chemists, their widows, and



orphans; and the Act was to be known as "The Chemists and Druggists Act."

The United Society's Bill, which was piloted by Sir John Shelley, M.P. for Westminster, proposed that a Secretary of State should appoint a Commissioner who should, by public advertisements, call a meeting of the chemists and druggists of England and Wales, to be held in the metropolis, at which the first council of the Chemists and Druggists' Society should be elected, to consist of President, Vice-President, and twenty-one members. The body thus elected should become a body corporate, and should appoint a registrar, treasurer, and examiners. Provisions for subsequent elections of the Council from the chemists who would be registered were also made. Pharmaceutical chemists and medical practitioners were not to be interfered with, and chemists and druggists in business, and assistants and apprentices to the same, were to be entitled to be registered on payment of 21s. For the future registration was to be preceded by a certificate from the examiners of a competent knowledge of drugs and medicines in general use, with their doses, and of ability to read physicians' prescriptions with ease and accuracy. A penalty not exceeding 5*l.* was to be imposed on any person retailing, dispensing, or compounding drugs or medicines, or employing unregistered assistants, in such business. A penalty not exceeding 20*l.* was proposed to be incurred by anyone selling any "active poison" (named in a schedule), except under conditions of witness, entry, &c.; and a 20*l.* penalty was also to be incurred by any unregistered person who should keep shop, store, or other place for retailing drugs or medicines, or who should call himself a chemist and druggist. An annual fee of 10*s.* 6*d.* was to be paid to the Council for the purposes of the Act by every chemist and druggist in business as a principal. There were appended to the Bill (1) a schedule of dangerous drugs, which apparently were the substances which only chemists and druggists and pharmaceutical chemists and medical men might sell; and (2) a schedule of "active poisons," in regard to the sale of which



special precautions were to be taken. These schedules were as follows :—

*Dangerous Drugs.*

Almonds, Essential Oil of.		Ipecacuanha and	{ Pharmaceuti- cal Prepara- tions of.
Antimony, { Pharmaceutical Pre- parations of.			
Arnica, , ,		Lettuce, , ,	
Barium, , ,		Lobelia and , ,	
Bromine, , ,		Lead, , ,	
Chloroform and , ,		Male Fern, , ,	
Cocculus Indicus, , ,		Meadow Saffron, , ,	
Creosote.		Mercury, , ,	
Croton Oil.		Nux Vomica and , ,	
Deadly Nightshade and , ,		Opium and , ,	
Foxglove and , ,		Oxalic Acid.	
Grains of Paradise.		Potash, , ,	
Hellebore and , ,		Savin, , ,	
Hemlock and , ,		Spanish Fly and , ,	
Henbane and , ,		Thorn Apple, , ,	
Indian hemp, , ,		Tobacco, , ,	
Iodine and , ,		Wild Cucumber, , ,	

*Active Poisons.*

Aconite, { Pharmaceutical Prepa- rations of.	Ergot of Rye and { Pharmaceutical Preparations of.
Arsenic and , ,	Strychnine and , ,
Atropine, , ,	Veratrine, , ,

The two Bills came on for second reading on March 29, 1865. After speeches by Sir F. Kelly, Sir J. Shelley, Dr. Brady, Mr. Kinglake, Mr. Roebuck, Lord Elcho, and Mr. Beecroft, Sir George Grey recommended that both should be read a second time and referred to a Select Committee. This was agreed to. The Committee appointed consisted of Mr. T. G. Baring (Under-Secretary for Home Department), who presided; Sir F. Kelly, Sir J. Shelley, Lord Elcho (Haddingtonshire), Dr. Brady (Leitrim), F. C. Hastings Russell (Beds), C. W. Wynn (Montgomeryshire), A. S. Ayrton (Tower Hamlets), G. Selater-Booth (North Hants), W. Cox (Finsbury), H. W. Schneider (Lancaster), Sir J. Ferguson (Ayrshire), C. Forster (Walsall), J. A. Roebuck (Sheffield), Adam



Black (Edinburgh). The Committee held four sittings and heard evidence from Dr. Alfred Swaine Taylor, the eminent toxicologist; Dr. Simon, Medical Officer of the Privy Council; Dr. Quain, Dr. Wilson, and Mr. Mackay, of Edinburgh. The medical evidence taken was entirely in favour of some restrictions being imposed by law on the sale of poisons. The witnesses generally commended the organisation and work of the Pharmaceutical Society, but the fact that their Bill did not include any provisions in respect to the sale of poisons, a subject which the Legislature had attempted to deal with for many sessions past, was found to put it at a serious disadvantage. While the Select Committee was sitting, a communication was made to it from the Medical Council, supporting the view of "the necessity of regulating by statute the practice of pharmacy by chemists and druggists throughout the kingdom." The Medical Council indicated a strong preference for the Pharmaceutical Society's Bill. They desired, however, that it should be extended to Ireland, and proposed that a clause should be inserted rendering it imperative on chemists and druggists to obey the British Pharmacopœia; and they also suggested that provision should be made to prevent chemists from converting themselves into unqualified medical practitioners. They intimated, further, that in their opinion the Bill before the Committee made admission to the register too easy. The Select Committee, however, regarding the restriction of the sale of poisons as an essential object of any Act of Parliament regulating pharmacy, manifested a preference for the principle of the United Society's Bill, but the only definite conclusions the Committee arrived at were: "First, that no compulsory examination or registration under the Bills referred to the Committee should be required of persons now carrying on the trade of chemists and druggists"; and "Second, that the Bill do provide that no other person shall, after a day to be fixed by the Bill, sell certain dangerous drugs, to be scheduled in the Bill, unless he be examined and registered." They rejected the proposal of the Pharmaceutical Society that persons compounding medicines from the



prescriptions of medical men should be examined, and they objected also to the organisation proposed by the United Society. Ultimately they came to the conclusion to abandon both Bills for the present, but to recommend that the Government should early in the new Parliament bring in a Bill on the subject. While the Select Committee was sitting Lord Elcho succeeded in bringing about a consultation between the leaders of both Societies. Many interviews took place subsequently, and early in 1866 the Pharmaceutical Council submitted to the Home Office a memorandum in which the outlines of a measure such as they recommended were sketched.

#### CHEMISTS AGREE ON A DRAFT BILL.

In the course of the years 1866 and 1867 differences between the representatives of the different sections of chemists were reduced, and before the end of the latter year a substantial agreement had been arrived at. Committees of the two societies were appointed to work in harmony, under the generalship of Mr. G. W. Sandford, President of the Pharmaceutical Society. A Bill, based on the recommendations of the Select Committee of 1865, was drafted and submitted to the Home Secretary, Mr. Gathorne Hardy. After several interviews Mr. Hardy put in writing the heads of the Bill, which he was "not unwilling to support." It was "to restrict the title of 'chemist and druggist' to—(1) those then in business as such; (2) those to be examined in the future and passed by proper examiners; (3) pharmaceutical chemists; (4) medical men under the Medical Act. No others to be allowed to sell certain drugs, &c." The framers of the Bill were limited by this declaration as well as by the decisions of the Select Committee, and consequently they found it necessary to abandon their cherished desire to secure to registered chemists the exclusive right to compound physicians' prescriptions.

#### THE BILL IN PARLIAMENT.

After all the Government did not charge themselves with the Bill, but they maintained a friendly attitude towards it.



It was introduced into the House of Lords on May 11, 1868, by Lord Granville, and was read a second time on the 28th of the same month. On June 15 it was considered in committee, and on June 16 the report stage was taken. The Bill was read a third time in the House of Lords on June 18, 1868. There was no discussion on the second reading of the Bill, but in committee Lord Vaux of Harrowden urged that its operation should be extended to Ireland, where he said, in consequence of the severe examination which dispensers of medicine had to go through, there was often much difficulty in getting prescriptions dispensed. The Marquis of Clanricarde supported this suggestion; but the Lord Chancellor, the Duke of Marlborough, and other peers intimated that it would be better to draw a separate Bill for Ireland. The Duke of Marlborough (Lord President of the Council) pointed out that opium and its preparations were omitted from the schedule, and also, on his suggestion, an exemption in respect of poisons bought for photography was omitted. Lord Redesdale pressed persistently for a clause requiring that a poison-bottle should be used in certain cases; the Marquis of Salisbury being the chief opponent of this suggestion. On the third reading Lord Redesdale took a division in regard to his proposition, and was defeated by 45 votes to 39.

In the House of Commons the Bill was read a second time, and brought into committee by Mr. Headlam, but was afterwards taken charge of by Lord Elcho, and ultimately by Mr. Ayrton, its earlier sponsors leaving town before Parliament rose. The Right Honourable Robert Lowe took a keen interest in the measure. By his first amendment, registration was made compulsory on all chemists in business. The proposal in the Bill was to leave them free to register or not. Mr. Lowe also objected to the proposal in the first clause, giving to the Pharmaceutical Society the initiative in making regulations respecting the keeping of poisons. He did not press his amendment of this point, however, but he was supported by several influential members in his proposal to leave to the Privy Council exclusively the right to make additions to



the schedule of poisons. On a division, however, the clause as originally drafted was approved of by 49 votes to 25. Mr. Lowe next opposed the clause allowing registration of assistants, and the House generally agreed with him. The difficulty was ultimately compromised by the provision of a "modified examination," which was proposed by Lord Elcho and agreed to. The clause which is now section 5 was added at the instance of Mr. Lowe. On Lord Robert Montagu's amendment, the words of the 15th clause were altered from "any person keeping an open shop for," &c., to "any person who shall sell or keep open shop for," &c. The provision in regard to compounding according to the British Pharmacopœia was also inserted on his suggestion. In the Bill as drafted, an exemption from its restrictions was provided in respect of "the retailing of arsenic, oxalic acid, cyanide of potassium, or corrosive sublimate for use in manufactures." Mr. Lowe attacked this exemption, and, after discussion and division, the words quoted were struck out of the 16th clause by 58 votes to 30. The 17th clause, regulating sales of poisons, occasioned much discussion. Mr. Lowe sought to apply the provisions of the Arsenic Act to all poisons. A compromise, dividing the schedule of poisons, was ultimately agreed to. The clause exempting all chemists from jury service was struck out without discussion. Section 24 of the Act, applying the Adulteration Act to medicines, was added at the instance of Mr. Lowe; it was repealed by the Sale of Food and Drugs Act, 1875, into which it was incorporated. The addition to the schedule of "opium and all preparations of opium and poppies" was made on Mr. Lowe's suggestion, and when the report was taken, the right honourable gentleman sought to add to the words in the 17th section, allowing chemists to dispense poisons without labelling them poisons, &c., the words "under the written prescription of a legally qualified medical practitioner." Otherwise, he said, chemists could supply the most deadly poisons without any restriction. His amendment was, however, rejected by 14 votes to 2.

On the report stage Mr. Ayrton carried an amendment



striking out from clause 2 the words authorising the Pharmaceutical Society and the Privy Council to add new substances to the schedule of poisons, on the ground that it was not desirable to entrust the Privy Council with a power which might so considerably interfere with trade. Mr. Lowe in vain opposed this excision. The words were restored by the House of Lords when considering the Commons' amendments, and the House of Commons did not insist upon their removal.

The Bill was read a third time in the House of Commons on July 21, 1868, and received the Royal Assent on July 31, 1868, in the following form:—

AN ACT TO REGULATE THE SALE OF POISONS AND ALTER AND  
AMEND THE PHARMACY ACT, 1852.

31 & 32 Vict. c. 121.

Whereas it is expedient for the safety of the public that persons keeping open shop for the retailing, dispensing, or compounding of poisons, and persons known as chemists and druggists, should possess a competent practical knowledge of their business, and to that end that from and after the day herein named all persons not already engaged in such business should, before commencing such business, be duly examined as to their practical knowledge, and that a register should be kept as herein provided, and also that the Act passed in the fifteenth and sixteenth years of the reign of her present Majesty, intituled "An Act for Regulating the Qualification of Pharmaceutical Chemists,"\* hereinafter described as the Pharmacy Act, should be amended:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by authority of the same, as follows:—

*Persons Selling or Compounding Poisons, or Assuming the Title of  
Chemist or Druggist, to be Qualified.*

1. From and after the thirty-first day of December, one thousand eight hundred and sixty-eight, it shall be unlawful for any person to sell or keep open shop for retailing, dispensing, or compounding poisons, or to assume or use the title "chemist and druggist," or chemist or druggist, or pharmacist, or dispensing chemist or druggist, in any part of Great Britain, unless such person shall be a pharmaceutical chemist, or



a chemist and druggist within the meaning of this Act, and be registered under this Act, and conform to such regulations as to the keeping, dispensing, and selling of such poisons as may from time to time be prescribed by the Pharmaceutical Society with the consent of the Privy Council.

*Articles Named in Schedule (A.) to be deemed Poisons within the Meaning of this Act.*

2. The several articles named or described in the schedule (A.) shall be deemed to be poisons within the meaning of this Act, and the council of the Pharmaceutical Society of Great Britain (hereinafter referred to as the Pharmaceutical Society) may from time to time by resolution declare that any article in such resolution named ought to be deemed a poison within the meaning of this Act; and thereupon the said Society shall submit the same for the approval of the Privy Council, and if such approval shall be given, then such resolution and approval shall be advertised in the *London Gazette*, and on the expiration of one month from such advertisement the article named in such resolution shall be deemed to be a poison within the meaning of this Act.

*Chemists and Druggists within the Meaning of this Act.*

3. Chemists and druggists within the meaning of this Act shall consist of all persons who at any time before the passing of this Act have carried on in Great Britain the business of a chemist and druggist, in the keeping of open shop for the compounding of the prescriptions of duly qualified medical practitioners, also of all assistants and associates who before the passing of this Act shall have been duly registered under or according to the provisions of the Pharmacy Act, and also of all such persons as may be duly registered under this Act.

*Assistants to be Registered.*

4. Any person who at the time of the passing of this Act shall be of full age, and shall produce to the registrar, on or before the thirty-first day of December, one thousand eight hundred and sixty-eight, certificates according to Schedule (E.) to this Act that he had been for a period of not less than three years actually engaged and employed in the dispensing and compounding of prescriptions as an assistant to a pharmaceutical chemist, or to a chemist and druggist as defined by clause 3 of this Act, shall, on passing such a modified examination as the Council of the Pharmaceutical Society with the consent of the Privy Council may declare to be sufficient evidence of his skill and competency to conduct the business of a chemist and druggist, be registered as a chemist and druggist under this Act.



*Registration of Chemists and Druggists.*

5. The persons who at the time of the passing of this Act shall have been duly admitted pharmaceutical chemists, or shall be chemists and druggists within the meaning of the Act, shall be entitled to be registered under the Act without paying any fee for such registration: Provided, however, as regards any such chemist and druggist, that his claim to be registered must be by notice in writing, signed by him, and given to the registrar, with certificates according to the schedules (C.) and (D.) to this Act; and provided also that for any such registration of a chemist and druggist, unless it be duly claimed by him on or before the thirty-first day of December, one thousand eight hundred and sixty-eight, the person registered shall pay the same fee as persons admitted to the register after examination under this Act.

*Examiners under Pharmacy Act to be the Examiners under this Act.—  
Certificate of Competent Skill, &c.*

6. All such persons as shall from time to time have been appointed to conduct examinations under the Pharmacy Act shall be and are hereby declared to be examiners for the purposes of this Act, and are hereby empowered and required to examine all such persons as shall tender themselves for examination under the provisions of this Act; and every person who shall have been examined by such examiners, and shall have obtained from them a certificate of competent skill and knowledge and qualification, shall be entitled to be registered as a chemist and druggist under this Act; and the examination aforesaid shall be such as is provided under the Pharmacy Act for the purposes of a qualification to be registered as assistant under that Act, or as the same may be varied from time to time by any by-law to be made in accordance with the Pharmacy Act as amended by this Act: Provided that no person shall conduct any examination for the purposes of this Act until his appointment has been approved by the Privy Council; and such appointment and approval shall not in any case be in force for more than five years. Moreover, it shall be the duty of the said Pharmaceutical Society to allow any officer appointed by the said Privy Council to be present during the progress of any examination held for the purposes of this Act.

*Application of Fees to Purpose of Pharmaceutical Society.*

7. Upon every such examination and registration as aforesaid such fees shall be payable as shall from time to time be fixed and determined by any by-law to be made in accordance with the Pharmacy



Act as amended by this Act, and shall be paid to the treasurer of the said Society for the purposes of the said Society.

*Registrar under Pharmacy Act to be so under this Act.*

8. The registrar appointed or to be appointed under or by virtue of the Pharmacy Act shall be registrar for the purposes of this Act.

*Council of Pharmaceutical Society to Make Orders for Regulating Register to be kept.*

9. The Council of the Pharmaceutical Society shall, with all convenient speed after the passing of this Act, and from time to time as occasion may require, make orders or regulations for regulating the register to be kept under this Act as nearly as conveniently may be in accordance with the form set forth in the schedule (B.) to this Act or to the like effect, and such register shall be called the register of chemists and druggists.

*Duty of Registrar to Make and Keep Register.*

10. It shall be the duty of the registrar to make and keep a correct register, in accordance with the provisions of this Act, of all persons who shall be entitled to be registered under this Act, and to erase the names of all registered persons who shall have died, and from time to time make the necessary alterations in the addresses of the persons registered under this Act; to enable the registrar duly to fulfil the duties imposed upon him, it shall be lawful for the registrar to write a letter to any registered person, addressed to him according to his address on the register, to inquire whether he has ceased to carry on business or has changed his residence, such letter to be forwarded by post as a registered letter, according to the post-office regulations for the time being, and if no answer shall be returned to such letter within the period of six months from the sending of the letter, a second, of similar purport, shall be sent in like manner, and if no answer be given thereto within three months from the date thereof, it shall be lawful to erase the name of such person from the register: Provided always that the same may be restored by direction of the Council of the Pharmaceutical Society, should they think fit to make an order to that effect.

*Notice of Death of Pharmaceutical Chemist or Chemist and Druggist to be Given by Registrars.*

11. Every registrar of deaths in Great Britain, on receiving notice of the death of any pharmaceutical chemist or chemist and druggist, shall forthwith transmit by post to the registrar under the Pharmacy Act a certificate under his own hand of such death, with the particulars



of the time and place of death, and on the receipt of such certificate the said registrar under the Pharmacy Act shall erase the name of such deceased pharmaceutical chemist or chemist and druggist from the register, and shall transmit to the said registrar of deaths the cost of such certificate and transmission, and may charge the cost thereof as an expense of his office.

*Evidence of Qualification to be Given before Registration.*

12. No name shall be entered in the register, except of persons authorised by this Act to be registered, nor unless the registrar be satisfied by the proper evidence that the person claiming is entitled to be registered; and any appeal from the decision of the registrar may be decided by the Council of the Pharmaceutical Society; and any entry which shall be proved to the satisfaction of such Council to have been fraudulently or incorrectly made may be erased from or amended in the register by order in writing of such Council.

*Annual Register to be Published and be Evidence.*

13. The registrar shall, in the month of January in every year, cause to be printed, published, and sold a correct register of the names of all pharmaceutical chemists, and a correct register of all persons registered as chemists and druggists, and in such registers respectively the names shall be in alphabetical order according to the surnames, with the respective residences, in the form set forth in Schedule (B.) to this Act, or to the like effect of all persons appearing on the register of pharmaceutical chemists, and on the register of chemists and druggists, on the thirty-first day of December last preceding, and such printed registers shall be called "The Registers of Pharmaceutical Chemists and Chemists and Druggists," and a printed copy of such registers for the time being, purporting to be so printed and published as aforesaid, or any certificate under the hand of the said registrar, and countersigned by the President or two members of the Council of the Pharmaceutical Society, shall be evidence in all courts, and before all justices of the peace and others, that the persons therein specified are registered according to the provisions of the Pharmacy Act or of this Act, as the case may be, and the absence of the name of any person from such printed register shall be evidence, until the contrary shall be made to appear, that such person is not registered according to the provisions of the Pharmacy Act or of this Act.

*Penalty on Wilful Falsification of Register, or for Obtaining Registration by False Representation.*

14. Any registrar who shall wilfully make or cause to be made any falsification in any matter relating to the said registers, and any person



who shall wilfully procure or attempt to procure himself to be registered under the Pharmacy Act or under this Act, by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either verbally or in writing, and any person aiding or assisting him therein, shall be deemed guilty of a misdemeanour in England and in Scotland of a crime or offence punishable by fine or imprisonment, and shall on conviction thereof be sentenced to be imprisoned for any term not exceeding twelve months.

*Protection of Titles, and Restrictions on Sale of Poisons.*

15. From and after the thirty-first day of December, one thousand eight hundred and sixty-eight, any person who shall sell or keep an open shop for the retailing, dispensing, or compounding poisons, or who shall take, use, or exhibit the name or title of chemist and druggist, or chemist or druggist, not being a duly registered pharmaceutical chemist, or chemist and druggist, or who shall take, use, or exhibit the name or title pharmaceutical chemist, pharmacist, or pharmacist, not being a pharmaceutical chemist, or shall fail to conform with any regulation as to the keeping or selling of poisons made in pursuance of this Act, or who shall compound any medicines of the British Pharmacopœia, except according to the formularies of the said Pharmacopœia, shall for every such offence be liable to pay a penalty or sum of five pounds, and the same may be sued for, recovered, and dealt with in the manner provided by the Pharmacy Act for the recovery of penalties under that Act; but nothing in this Act contained shall prevent any person from being liable to any other penalty, damages, or punishment to which he would have been subject if this Act had not passed.

*Reserving Rights of certain Persons*

16. Nothing hereinbefore contained shall extend to or interfere with the business of any legally qualified apothecary or of any member of the Royal College of Veterinary Surgeons of Great Britain, nor with the making or dealing in patent medicines, nor with the business of wholesale dealers in supplying poisons in the ordinary course of wholesale dealing; and upon the decease of any pharmaceutical chemist or chemist and druggist actually in business at the time of his death it shall be lawful for any executor, administrator, or trustee of the estate of such pharmaceutical chemist or chemist and druggist to continue such business if and so long only as such business shall be *bonâ fide* conducted by a duly qualified assistant, and a duly qualified assistant within the meaning of this clause shall be a pharmaceutical chemist or a chemist and druggist registered by the registrar under the Pharmacy



Act or this Act : Provided always that registration under this Act shall not entitle any person so registered to practise medicine or surgery, or any branch of medicine or surgery.

*Regulations to be Observed in the Sale of Poisons.*

17. It shall be unlawful to sell any poison, either by wholesale or by retail, unless the box, bottle, vessel, wrapper, or cover in which such poison is contained be distinctly labelled with the name of the article and the word poison, and with the name and address of the seller of the poison ; and it shall be unlawful to sell any poison of those which are in the first part of Schedule (A.) to this Act, or may hereafter be added thereto under section 2 of this Act, to any person unknown to the seller, unless introduced by some person known to the seller ; and on every sale of any such article the seller shall, before delivery, make or cause to be made an entry in a book to be kept for that purpose stating, in the form set forth in Schedule (F.) to this Act, the date of the sale, the name and address of the purchaser, the name and quantity of the article sold, and the purpose for which it is stated by the purchaser to be required, to which entry the signature of the purchaser and of the person, if any, who introduced him shall be affixed ; and any person selling poison otherwise than is herein provided shall, upon a summary conviction before two justices of the peace in England or the sheriff in Scotland, be liable to a penalty not exceeding five pounds for the first offence, and to a penalty not exceeding ten pounds for the second or any subsequent offence, and for the purposes of this section the person on whose behalf any sale is made by any apprentice or servant shall be deemed to be the seller ; but the provisions of this section, which are solely applicable to poisons in the first part of the Schedule (A.) to this Act, or which require that the label shall contain the name and address of the seller, shall not apply to articles to be exported from Great Britain by wholesale dealers, nor to sales by wholesale or retail dealers in the ordinary course of wholesale dealing, nor shall any of the provisions of this section apply to any medicine supplied by a legally qualified apothecary to his patient, nor apply to any article when forming part of the ingredients of any medicine dispensed by a person registered under this Act ; provided such medicine be labelled, in the manner aforesaid, with the name and address of the seller, and the ingredients thereof be entered, with the name of the person to whom it is sold or delivered, in a book to be kept by the seller for that purpose ; and nothing in this Act contained shall repeal or affect any of the provisions of an Act of the session holden in the fourteenth and fifteenth years in the reign of her present Majesty, intituled " An Act to Regulate the Sale of Arsenic."



*Chemists and Druggists in Business prior to Passing of Act eligible for Election as Members of Pharmaceutical Society.*

18. Every person who at the time of the passing of this Act is or has been in business on his own account as a chemist and druggist as aforesaid, and who shall be registered as a chemist and druggist, shall be eligible to be elected and continue a member of the Pharmaceutical Society according to the by-laws thereof; but no person shall, in right of membership acquired pursuant to this clause, be placed on the register of pharmaceutical chemists, nor, save as is hereinafter expressly provided, be eligible for election to the Council of the Pharmaceutical Society.

*Council of Pharmaceutical Society.*

19. Every person who is or has been in business on his own account as a chemist and druggist as aforesaid at the time of the passing of this Act, and who shall become a member of the Pharmaceutical Society, shall be eligible for election to the Council of the Pharmaceutical Society; but the said Council shall not at any time contain more than seven members who are not on the register of pharmaceutical chemists.

*Chemists and Druggists Registered eligible to be Elected Associates, and being in Business, have the Privilege of Voting in the Society on Paying the same Subscriptions as Members.*

20. Every person who shall have been registered as a chemist and druggist under this Act by reason of having obtained a certificate of qualification from the board of examiners shall be eligible to be elected an associate of the Pharmaceutical Society, and every such person so elected and continuing as such associate, being in business on his own account, shall have the privilege of attending all meetings of the said Society and of voting thereat, and otherwise taking part in the proceedings of such meetings, in the same manner as members of the said Society: Provided always that such associates contribute to the funds of the said Society the same fees or subscriptions as members contribute for the time being under the by-laws thereof.

*Voting-papers for Election of Council.*

21. At all meetings of the Pharmaceutical Society at which votes shall be given for the election of officers, all or any of the votes may be given either personally or by voting-papers in a form to be defined in the by-laws of the said Society, or in a form to the like effect, such voting-papers being transmitted under cover to the secretary



not less than one clear day prior to the day on which the election is to take place.

*Benevolent Fund may be Applied to past Members and Associates, also to Pharmaceutical Chemists and Registered Chemists and Druggists.*

22. And whereas by the charter of incorporation of the said Pharmaceutical Society it is provided that the Council of the said Society shall have the sole control and management of the real and personal property of the said Society, subject to the by-laws thereof, and shall make provision thereout, or out of such part thereof as they shall think proper, for the relief of the distressed members or associates of the said Society and their widows and orphans, subject to the regulations and by-laws of the said Society: And whereas, for extending the benefits which have resulted from the said provision in the said charter of incorporation, it is desirable that additional power should be granted to the said Council: Be it enacted that from and after the passing of this Act the said Council may make provision out of the real and personal property aforesaid, and out of any special fund known as the benevolent fund, not only for the relief of the distressed members or associates of the said Society and their widows and orphans, subject to the said regulations and by-laws, but also for all persons who may have been and have ceased to be members or associates of the said Society, or who may be or have been duly registered as "pharmaceutical chemists" or "chemists and druggists," and the widows and orphans of such persons, subject to the regulations and by-laws of the said Society.

*Registration under "Medical Act."*

[ \* 23. Persons registered under "The Medical Act" shall not be or continue to be registered under this Act.\* ]

*Adulteration of Food or Drink Act to Extend to Medicines.*

[†24. The provisions of the Act of the twenty-third and twenty-fourth of Victoria, chapter eighty-four, intituled "An Act for Preventing the Adulteration of Articles of Food or Drink," shall extend to all articles usually taken or sold as medicines, and every adulteration of any such article shall be deemed an admixture injurious to health; and any person registered under this Act who sells any such article adulterated shall, unless the contrary be proved, be deemed to have knowledge of such adulteration.† ]

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\* Repealed by 32 & 33 Vict., c. 117.

† Repealed by 38 & 39 Vict. c. 63.



*Acts of Privy Council.*

25. On and after the passing of this Act all powers vested by the Pharmacy Act in one of her Majesty's principal Secretaries of State shall be vested in the Privy Council, and the seventh section of the Public Health Act, 1858, shall apply to all proceedings and acts of the Privy Council herein authorised.

*Power to Privy Council to Erase Names of Persons from Register.*

26. The Privy Council may direct the name of any person who is convicted of any offence against this Act which in their opinion renders him unfit to be on the register under this Act to be erased from such register, and it shall be the duty of the registrar to erase the same accordingly.

*Extent of Act.*

27. This Act shall not extend to Ireland.

*Short Title.*

28. This Act may be cited as the Pharmacy Act, 1868.

## SCHEDULES.

## SCHEDULE (A.).

## PART 1.

Arsenic and its preparations.	Aconite and its preparations.
Prussic acid.	Emetic tartar.
Cyanides of potassium and all metallic cyanides.	Corrosive sublimate.
Strychnine and all poisonous vegetable alkaloids and their salts.	Cantharides.
	Savin and its oil.
	Ergot of rye and its preparations.

## PART 2.

Oxalic acid.	Essential oil of almonds unless deprived of its prussic acid.
Chloroform.	Opium and all preparations of opium or of poppies
Belladonna and its preparations.	

## SCHEDULE (B.).

NAME	RESIDENCE	QUALIFICATION
A.B. C.D. E.F.	Oxford Street, London George Street, Edinburgh Cheapside, London	In business prior to Pharmacy Act, 1868 Examined and certified Assistant prior to Pharmacy Act, 1868



## SCHEDULE (C).

*Declaration by a Person who was in Business as a Chemist and Druggist in Great Britain before the Pharmacy Act, 1868.*

To the Registrar of the Pharmaceutical Society of Great Britain.

I , residing at , in the County of , hereby declare that I was in business as a chemist and druggist, in the keeping of open shop for the compounding of the prescriptions of duly qualified medical practitioners at in the County of , on or before the day of , 186 .

Signed (Name.)

Dated this day of , 18 .

## SCHEDULE (D).

*Declaration to be Signed by a Duly Qualified Medical Practitioner or Magistrate, respecting a Person who was in Business as a Chemist and Druggist in Great Britain before the Pharmacy Act, 1868.*

To the Registrar of the Pharmaceutical Society of Great Britain.

I , residing at , in the County of , hereby declare that I am a duly qualified medical practitioner [or magistrate], and that to my knowledge , residing at , in the county of , was in business as a chemist and druggist, in the keeping of open shop for the compounding of the prescriptions of duly qualified medical practitioners before the day of , 186 .

(Signed.)

## [\*SCHEDULE (E.).

*Declaration to be Signed by and on behalf of any Assistant Claiming to be Registered under the Pharmacy Act, 1868.*

To the Registrar of the Pharmaceutical Society of Great Britain.

I hereby declare that the undersigned , residing at in the County of , had for three years immediately before the passing of the Pharmacy Act, 1868, been employed in dispensing and compounding prescriptions as an assistant to a pharmaceutical chemist or chemist and druggist, and attained the age of twenty-one years.

As witness my hand, this day of , 186 .

A.B. Duly qualified medical practitioner.

C.D. Pharmaceutical chemist.

E.F. Chemist and druggist.

G.H. Magistrate.

(To be signed by one of the four parties named.)

I hereby declare that I was an assistant to , of , in the County of , in the year , and was for three years immediately before the passing of this Act actually engaged in dispensing and compounding prescriptions, and that I had attained the full age of twenty-one years at the time of the passing of the Pharmacy Act, 1868.

N.O. Assistant.\*]



## SCHEDULE (F.).

Date	Name [*andAddress] of Purchaser	Name and Quantity of Poison Sold	Purpose for which it is Required	Signature of Purchaser	Signature of Person intro- ducing Purchaser

## ADDITIONS TO THE SCHEDULE OF POISONS.

By the authority of section 2 of the Pharmacy Act, 1868, the following additions have been made to the Schedule of Poisons, and advertised in the *Gazette*, such additions having been recommended by the Pharmaceutical Society and approved by the Privy Council.

*Advertised in the "London Gazette" of December 21, 1869.*

Preparations of corrosive sublimate.

Preparations of morphine.

Red oxide of mercury (commonly known as red precipitate of mercury).

Ammoniated mercury (commonly known as white precipitate of mercury).

Every compound containing any poison within the meaning of "The Pharmacy Act, 1868," when prepared or sold for the destruction of vermin.

The tincture and all vesicating liquid preparations of cantharides.

*Advertised in the "London Gazette" of December 13, 1877.*

Chloral hydrate, and its preparations.

*Advertised in the "London Gazette" of July 28, 1882.*

Nux vomica, and its preparations.

\* Added by 32 & 33 Vict., c. 117.



## THE SALE OF POISONS.

THE following summary of the precautions to be observed in selling poisons has been issued by the Pharmaceutical Council:—

### *List of Poisons within the Meaning of the Act.*

#### Part 1.

**Not to be sold unless**  
*the purchaser is known to or is introduced by some person known to the seller;*

ALSO

**Entry to be made in Poison-book**  
OF

1. *Date of sale;*
2. *Name and address of purchaser;*
3. *Name and quantity of article;*
4. *Purpose for which it is wanted; attested by signature;*

AND

**Must be labelled with**

1. *Name of article.*
2. *The word "poison."*
3. *Name and address of seller.*

(Arsenic and its preparations. (For special regulations see below.)  
Aconite, and its preparations.  
Alkaloids:—All poisonous vegetable alkaloids and their salts.  
Atropine, and its preparations.  
Cantharides.  
Corrosive sublimate.  
Cyanide of potassium, and all metallic cyanides and their preparations.  
Emetic tartar.  
Ergot of rye, and its preparations.  
Prussic acid, and its preparations.  
Savin, and its oil.  
Strychnine, and its preparations.  
Vermin-killers, if preparations of poisons the preparations of which are in Part 1 of this schedule.

#### Part 2.

(Almonds, essential oil of (unless deprived of prussic acid).  
Belladonna, and its preparations.  
Cantharides, tincture and all vesicating liquid preparations of.  
Chloroform.  
Chloral hydrate, and its preparations.  
Corrosive sublimate, preparations of.  
Morphia, preparations of.  
Nux vomica, and its preparations.  
Opium, and its preparations; and preparations of poppies.  
Oxalic acid.  
Precipitate, red (red oxide of mercury).  
Precipitate, white (ammoniated mercury).  
Vermin-killers (see Part 1). Compounds containing "Poisons," prepared for the destruction of vermin, if not subject to the provisions of Part 1 are in Part 2.

Special regulations are to be observed in regard to the sale of arsenic, as the Arsenic Act (See pages 20 to 24) is still in force. These are:—



1. That the poison, if colourless, be mixed with soot or indigo, so as to colour it.

2. That the person to whom the poison is sold or delivered be of mature age.

3. That the occupation, as well as the name and address, of the purchaser be entered in the poison-book.

4. That when the purchaser is not known to the seller, and is introduced by some person known to both, this person shall be present as a witness to the transaction, and shall enter his name and address in the poison-book.

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Questions concerning the application of this schedule of poisons in particular cases are often raised. It is not possible to answer these authoritatively when no judicial decision has been given. It is, for instance, often asked whether the presence of a poison in a compound makes that compound a "preparation" of the poison within the meaning of the Act? Again, in the case of chloroform and a few other poisons the preparations of which are not named in the schedule, it is sometimes asked whether it is necessary to label compounds in which such articles are ingredients with the word "poison." Another question which has been particularly raised in connection with proprietary medicines containing poison has been whether the name of the poison contained must appear on the label, the Act requiring only the "name of the article," the word "poison," and the name and address of the seller. It is not of much use to discuss these points, which can only be settled if they turn up in a court of law. But, with regard to the first, reference may be made to an opinion given by the medical officers of the Privy Council (pages 90 and 91), which, it is true, does not go far, and other difficulties can generally be resolved if chemists will endeavour to act in accord with the spirit of the law, without, on the other hand, reducing the Act to an absurdity, as would be done if, for instance, chloroform-water were labelled "Poison." In the subsequent pages will be found all the decisions on points in pharmacy and poison law which have been given by the Courts.



**THE PHARMACY ACT, 1868, AMENDMENT ACT, 1869.**

IN the Pharmacy Act, 1868, as it came from the Upper to the Lower House the first provision of the 16th section stated that "nothing hereinbefore contained shall extend to or interfere with the business of any legally qualified *medical practitioner*." For the sake of greater clearness, it was understood, Lord Robert Montagu carried without objection the substitution of the term *apothecary* for medical practitioner. It was subsequently questioned, in the *Lancet* and elsewhere, whether medical practitioners other than licentiates of the Society of Apothecaries were entitled by the Act to carry on a pharmaceutical business. There was no doubt that it was the intention of the framers of the Bill not to interfere with such persons at all. Lord Robert Montagu was, therefore, induced to bring in a Bill making it clear that the exemption applied to all registered medical practitioners, and this is done by section 1 of the amending Act. Section 2 was introduced, at the instance of the Pharmaceutical Society, to remedy a grievance which had been created by the word "immediately," which had been by some unknown scribe inserted in the declaration which, according to schedule (E.), assistants were to make if they desired to avail themselves of the modified examination. Section 3 was introduced on the suggestion of Dr. Brewer, M.P. for Colchester, and made it clear that the word "poison" need not be applied to any medicine supplied by a legally qualified medical practitioner to his patient or dispensed by any person registered under the Pharmacy Act. Dr. Brewer's proposition contained the words after the word "dispensed": "under the prescription in writing of any legally



qualified medical practitioner"; but on representation of the difficulty in many cases of ascertaining who was the writer of a prescription, as well as in the case of family recipes, &c., the words were omitted by the House of Lords. The section is, therefore, only an amplification of the words at the end of section 17 of the principal Act. The remainder of the 1869 Act made the position of veterinary surgeons clear, and corrected the former Act as the alterations made rendered necessary. The following is the text of the

ACT TO AMEND "THE PHARMACY ACT, 1868." \*

Whereas it is expedient to amend the provisions of the Pharmacy Act, 1868, in regard to duly qualified medical practitioners and veterinary surgeons, and in other respects :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

*Reserving Rights of certain Persons.*

1. Nothing contained in the first fifteen sections of the recited Act shall affect any person who has been registered as a legally qualified medical practitioner before the passing of this Act ; and the said clauses shall not apply to any person who may hereafter be registered as a legally qualified practitioner, and who, in order to obtain his diploma for such registration, shall have passed an examination in pharmacy ; nor shall the said clauses prevent any person who is a member of the Royal College of Veterinary Surgeons of Great Britain, or holds a certificate in veterinary surgery from the Highland and Agricultural Society of Scotland, from dispensing medicines for animals under his care.

*Period within which Certificates under Section 4 of Recited Act to be Produced to Registrar.*

2. The time within which certificates may be produced to the registrar under section 4 of the said Act, by persons employed as assistants before the passing of the said Act, shall be extended to the thirty-first day of December, one thousand eight hundred and sixty-nine, and the certificates given under the same section according to Schedule (A.) of this Act shall be sufficient.



*Excepting Medicine Supplied by a Legally Qualified Medical Man.*

3. Nothing contained in section 17 of the said recited Act shall apply to any medicine supplied by a legally qualified medical practitioner to his patient or dispensed by any person registered under the said Act, provided such medicine be distinctly labelled with the name and address of the seller, and the ingredients thereof be entered, with the name of the person to whom it is sold or delivered, in a book to be kept by the seller for that purpose.

*Section 23 and Schedule (E.) Repealed.*

4. Section 23 and schedule (E.) of the said recited Act are hereby repealed.

*Schedule (F.) Amended.*

5. Schedule (F.) of the said recited Act is hereby altered by substituting for the second column, headed "Name of purchaser," a column headed "Name and address of purchaser."

SCHEDULE (A.).

DECLARATIONS to be signed by and on behalf of any assistant claiming to be registered under the Pharmacy Act, 1868.

To the Registrar of the Pharmaceutical Society of Great Britain.

I hereby declare that the undersigned, \_\_\_\_\_, residing at \_\_\_\_\_, in the county of \_\_\_\_\_, had for three years before the thirty-first day of July, one thousand eight hundred and sixty-eight, been employed in dispensing and compounding prescriptions as an assistant to a pharmaceutical chemist or chemist and druggist, and attained the age of twenty-one years.

As witness my hand this                      day of                      , 186 .

A. B., Qualified medical practitioner.

C. D., Pharmaceutical chemist.

*E. F.*, Chemist and druggist.

G. H., Magistrate.

To be signed by one of the four parties named.

I hereby declare that I was an assistant to \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, in the year \_\_\_\_\_, and was for three years before the thirty-first day of July, one thousand eight hundred and sixty-eight, actually engaged in dispensing and compounding prescriptions, and that I had attained the full age of twenty-one years at the above-named date.

N. O., Assistant.



## INTERPRETATIONS OF THE PHARMACY ACT.

## MEDICINES DISPENSED.

THE first case under the Act in which the judgment of a superior Court was obtained had reference to the provision concerning medicines dispensed. A chemist's assistant had absconded from his employment in London, taking some of his master's money. He was soon afterwards heard of at Worthing, and there, it appears, he attempted to commit suicide by means of poison. He presented to a chemist at Worthing a prescription as follows:—

Acid. hydrocyan. ("Scheele's")	..	..	..	..	3ij.
Aq. rosæ	..	..	..	..	3ij.
M. ft. lotio; ter die applicand.					
Mrs. Newton.					R. M. L.

The lotion was prepared by an assistant, and supplied in an angular bottle, to which a coloured label was attached giving the directions. The label also bore in print the words "Caution—for external use," and the name and address of the druggist. The Worthing chemist was prosecuted by the police, under the Pharmacy Act, section 17, for selling poison to a person unknown to him, and also for sending out a poison not labelled as required by the Act. Two penalties of 10s. each were inflicted by the Worthing magistrates, but the defendant, supported by the Pharmaceutical Society, appealed, and the case was heard in February, 1870, in the Court of Queen's Bench, before Justices Lush and Hannen. Mr. Quain, Q.C., argued for the appellant, and Mr. Lumley Smith for the police. In support of the decision it was urged that the article sold was simply prussic acid diluted; that it was not, therefore, a medicine in the sense intended by the proviso



in the 17th section ; and that the name, "Mrs. Newton," was not that of the person to whom the article was sold or delivered. The appellant relied on the proviso. It was not disputed that he had prepared and sold the lotion in good faith, and it was argued that it was no part of the chemist's business to get proof of the genuineness of the prescription presented to him, or of the accuracy of the representation as to the person for whom it was alleged to be required. The fact was found that the mixture was a suitable one for a lotion in certain cases. The Court reversed the magistrates' decision. They came to the conclusion that a duly-qualified medical practitioner might have supplied such a lotion as this to his patient ; and, said Mr. Justice Lush, "the proviso seems to put upon the same footing in this respect a duly-qualified medical man supplying this thing to his patient and a registered chemist and druggist dispensing such a thing." "The principle involved," said the same judge, he understood to be "the making-up something that is prescribed, or making it with directions how it is to be used." Then, as to the name of the person entered in the book, Mr. Justice Lush considered that the statute, by the words "sold or delivered," gave the vendor the option of entering the name of the person for whom it was sold, or of the person to whom it was delivered ; and as in this case the fact was taken to be found that the chemist reasonably believed the lotion was prescribed for a Mrs. Newton, he had complied with the provisions of the Act in entering it in his prescription-book.

A curious point of general law was mentioned in the arguments on this case. The Pharmacy Act (1869) received the Royal assent on the very day when this lotion was dispensed. That Act repeated the proviso on which the case turned, but with this difference. In the 1868 Act the chemist was required to label the medicine *in the manner aforesaid* with his name and address. It was possible to presume that "the manner aforesaid" included the addition of the word "poison," &c. If that should be held, Mr. Quain said, he should have to ask the Court to say that the Act of 1869 was



in force all that day, because in that Act the ambiguity was not present. Mr. Lumley Smith declined to raise that point, as he said the only object of all parties was to get a judicial decision of the law as a guide for the future, and Mr. Justice Lush ruled that "the manner aforesaid" simply meant distinctly and legibly.

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A chemist was prosecuted at Torquay in April, 1889, by the police for having sold, by his assistant, a solution of chloral without labelling it "Poison." The circumstances were these:—

A customer went to a chemist for some chloral hydrate; the chemist refused to supply it in its native form, but ultimately sold or dispensed a mixture containing 80 grains of chloral hydrate, 1 oz. of syrup, and 7 oz. of water. He put this in an 8-oz. bottle, and labelled it, "The mixture—an eighth part to be taken at bedtime." The customer took a proper dose the first night, but the next night swallowed the remaining 7 oz., evidently with the intention of killing himself. The coroner who heard these facts suggested a prosecution of the chemist for not labelling the mixture "Poison." The jury supported the coroner's view, and the police consequently prosecuted. The defendant claimed that what he had done came within the exemption provided in respect to medicines dispensed. The Bench, however, held that the chemist had not dispensed a mixture, but had simply sold a diluted poison, and they imposed a fine of 1*l.*, including costs. It did not appear that the defendant had entered the ingredients of the medicine he supplied in a book kept for the purpose, as required by the Act, and if he had not done so he was clearly liable to the fine. But that the Magistrates' reason for convicting was wrong is clear from the Worthing case reported above.

#### REGISTERED COMPANIES ARE NOT PERSONS.

The case of the Pharmaceutical Society *v.* the London and Provincial Supply Association (Limited) was one of the most



important which has been tried under the Pharmacy Act. It was contested, with varying fortune, up to the highest Court of the realm, and the conclusion arrived at can only be reversed by Act of Parliament. The history of the case is as follows:—

In March, 1878, the Pharmaceutical Society prosecuted at the Marlborough Street Police-court, before Mr. Newton, magistrate, an unregistered person, Mr. Mackness, for two several offences under the 17th section of the Pharmacy Act, and a company formed by him, for an alleged third offence. The first summons was in respect of a sale of oxalic acid on December 28, 1877. In regard to this it transpired that Mr. Mackness had already paid a penalty of 5*l.*, under the 15th section, on the threat from the Society's solicitor of a County Court action. The second case was the sale of some red precipitate on February 4, 1878; and the third case was the sale of some oxalic acid on February 20, 1878. The poisons in the two earlier instances were labelled "Poison. London and Provincial Supply Association, 113 Tottenham Court Road, London, W. E. Longmore, Chemist and Druggist." Mr. Longmore was originally a qualified assistant in the employment of Mr. Mackness, and when the company was formed he became a small shareholder, but was still a salaried servant. In the third case oxalic acid was sold, and the assistant who supplied it simply wrote on the packet "Oxalic acid. Poison." Between the dates of the first and second mentioned sales the business had been converted into a limited company. After a long discussion and an adjournment Mr. Newton decided that in the first case, the defendant, having paid the 5*l.* under the 15th section, should only be required to pay the cost of the summons; in the second case he dismissed the summons, considering the labelling to have been sufficient; in the third case he fined the company 50*s.*, and 2*s.* cost of the summons. It is worth noting that already the counsel who defended raised the point, on the third summons, that his clients were not within the scope of the Act because they were a company and not persons; Mr. Newton,



however, declined to recognise a plea which seemed to him to place the defendants, as he said, above the law. With regard to his decision on the other summonses, it may be here mentioned that the Magistrate manifested a curious prejudice against the course which the Society's solicitors had taken in writing to the defendant before taking action. Mr. Newton seemed to consider the proceeding an attempt at extortion. In the second case brought under his notice he refused to read the words in the section that "for the purposes of this section the person on whose behalf any sale is made by any apprentice or servant shall be deemed to be the seller" as applicable to the defendant. In his view Mr. Longmore was the seller, and therefore he said the packet was properly labelled.

In May, 1878, the Pharmaceutical Society sued the company in the Bloomsbury County Court for a penalty under the 15th section, before Judge Russell, when the sale of poisons by the defendants was proved and admitted. Mr. Flux argued for the Society, and Mr. Sanders, Recorder of Bath, for the defence. It was established that the company consisted of ten persons, Mr. Mackness, unqualified, holding 5,640*l.* worth of shares paid up, and the other nine persons holding between them 360*l.* worth, 82*l.* 10*s.* of which was paid. One of these persons, Mr. Longmore, was a qualified chemist and druggist, and he held 50*l.* worth of shares, 12*l.* 10*s.* of which was paid. Besides being a shareholder he was also a salaried servant, and managed the drug department of the business, having two qualified men under him. After hearing evidence and arguments, the learned Judge adjourned the case for consideration. Then he gave judgment for the defendants. He said, "If Mr. Longmore had sold these things for himself alone, he would not have committed any offence whatever. It is said, however, that it was committing an offence because the business was so conducted that money is acquired and the profit so made goes into the pockets of other people. That obviously is not within the mischief intended to be remedied by the Act." This was the ground on which judgment was given for the defendants.



The case came before the Court of Queen's Bench as an appeal by the Pharmaceutical Society on March 15, 1879, the Lord Chief Justice (Cockburn) and Mr. Justice Mellor being on the Bench; the Attorney-General (Sir John Holker) and Mr. Lumley Smith, Q.C., appearing for the Pharmaceutical Society, and Mr. Wills, Q.C., for the defending company. At the outset Mr. Wills intimated that he should rest his case on the argument that companies, not being persons, were not affected by the 15th section of the Act. He could not see his way to support the view taken by the County Court Judge that it made any difference, for the purpose of this action, whether the company did or did not employ registered assistants. He maintained that when the Act was framed corporate bodies were not thought of—that this was, in fact, a *casus omissus*. And he argued it was not for the Courts to impose penalties which the Legislature had not in terms imposed, however desirable it might seem to be in order to complete the round of legislation. He quoted various sections of the Act, such as those relating to examinations, &c., which it was evident a corporation could not fulfil, to show that all consideration of them was overlooked. The Attorney-General, in reply, maintained that if the corporations could not fulfil the requirements so much the worse for the corporations. The Act, he argued, was passed to prevent anyone who could not fulfil these conditions from carrying on such a business.

The point whether, in law, the word "person" included a company, was argued at great length. The Act 13 and 14 Vict. c. 21, commonly known as Lord Brougham's Act, provides that "all words importing the masculine gender shall be deemed to include the feminine, and the singular shall include the plural." This applies to the interpretation of statutes generally, but obviously it did not cover this case. Then there was an Act 7 and 8 Geo. IV., c. 28, where it is expressly stated that the word "person" shall include bodies corporate in any statute relating to any offence whether punishable upon indictable or summary conviction. That



would be effective in a prosecution under the 17th section, but the offence defined by the 15th section of the Pharmacy Act was punishable by a penalty to be sued for. The Attorney-General argued that "if the company were a person in one part of the statute that made them a person all through"; but this view seemed rather strained. Mr. Wills, in the course of his argument, pressed the opinion, which has since been fully established, that the public was not without protection, because the person who should sell a poison would still be liable if he were not qualified. The Court was for a long time much influenced by Mr. Wills's arguments, but ultimately, on April 23, 1879, gave judgment in favour of the Pharmaceutical Society. Both Judges considered that the application of the Act was universal; that it was intended to prevent the mischief of the sale of poisons by unqualified persons; that qualified persons only should be allowed to keep open shop for the sale of such articles; and that therefore artificial as well as natural persons could not trade as chemists and druggists if they were not or could not be qualified.

The case came next before the Court of Appeal in the form of an appeal by the defendants. The arguments were heard on February 23-25 by Lords Justices Bramwell, Baggallay, and Thesiger; the counsel being the Attorney-General and Mr. Lumley Smith for the Pharmaceutical Society, and Mr. Wills, Q.C., and Mr. Finlay for the London and Provincial Supply Association (Limited).

Judgment was given on March 16 reversing that of the Court below.

Lord Justice Bramwell found that in all modern Acts of Parliament "corporations" were expressly named if they were intended to be included. In this Act they were clearly not so included. He would not, however, refuse to include corporations under the term "persons" if it were clear that without doing so the mischief aimed at could not be prevented. But that was not so here. If the servant of a corporation, not being a qualified chemist, sell poison, he is



the offender. It might then be asked how could the offence of "keeping open shop" be reached? The servants do not keep it open. No, but directors or managers do; they are the offenders in that case. He could not see how they could deny that they do keep open shop; as a fact, they do. In no other part of this statute could "person" include corporation. This was shown by a recital of the sections. This construction had the advantage of not needlessly restraining trade.

Lord Justice Baggallay took a similar view, and justified it by pointing out that under this interpretation the public was sufficiently protected in the case of a corporation keeping an open shop for selling or compounding poisons, as the actual seller would, under the 15th section, be liable to the penalty.

Lord Justice Thesiger came to a similar conclusion, but "not without doubt." He considered that the term "person" when contained in a modern Act of Parliament should never be construed to include corporations except where, first, the term is expressly so interpreted; or, secondly, the context shows they are so included; or, third, the object and scope of the Act peremptorily required such interpretation and the context did not clearly negative it. He did not find the necessity in this Act, and therefore agreed with the other Judges; but he remarked that he was not satisfied that, though the corporation as a separate entity might not be liable to the penalty, the individual members of the corporation might not themselves be so liable.

The Pharmaceutical Society appealed from this decision to the House of Lords, and the case was opened on July 20 before the Lord Chancellor (Selborne), Lord Blackburn, and Lord Watson. The same counsel were engaged as before, with the addition of Mr. Benjamin, Q.C., who principally conducted the argument on behalf of the appellants. On this occasion more than at any previous hearing, the argument was very keen, counsel and judges being all well acquainted with the points in dispute. In the main the contentions of the



rival counsel went on the same lines as we have previously indicated. The judgments were unanimously, and, on the whole, confidently, against the Pharmaceutical Society. The Lord Chancellor thought that the word "person" might—in his view did—*prima facie* include in a public statute a person in law as well as a natural person; but its popular sense did not extend so far. But in reading this Act it seemed to him that the Legislature had only in view natural persons. He showed this by several citations. There is no general prohibition of the trade or business, but merely a declaration that it shall be unlawful for a person unless he complies with certain conditions to carry on the business. He thought it a sounder construction to hold that only such persons were contemplated as might, by taking proper means, comply with the conditions. But in the 17th section came a general prohibition. In this section corporations are included. And the argument that the object of the Act would be defeated unless a corporation were included, he said, could not be successfully maintained because the act of selling, the act of compounding, or any act mentioned in the sections by which penalties are imposed is struck at, whether done by the principal or by the person whom he employs. The matter was not free from difficulty, but in the difficulty it was best to remember the principle that the liberty of the subject is not to be abridged by any unnecessary construction. He thought, therefore, it would be wrong to impose on the word "person" used in this context such a construction as would render illegal the carrying on of business by corporations without any reference to them from the beginning of the Act to the end.

Lord Blackburn would not have found any legal difficulty in applying the word "person" to corporations if it were necessary. But he thought it plain that the word as used in the Act applied to such persons as could become a pharmaceutical chemist. The object of including corporations was certainly not avowed on the face of the Act. He could not tell whether the promoters of the Act had the idea in their minds, but they did not bring it forward, and he thought



if they had boldly said bodies corporate and joint-stock companies shall not deal in poisonous drugs unless they pay blackmail to us, it was exceedingly improbable that the Legislature would have consented. No mischief was done by corporations keeping an open shop if sales were conducted by qualified persons. He held distinctly that there could be no sale, whether a corporation be the ultimate vendor or not, unless a natural person managed the sale, and such natural persons if unqualified would be liable under the Act. And he was inclined to think that if a corporation or anybody else caused an unqualified person to make such sales they might be themselves liable to penalties. He was not certain about that, however.

Lord Watson was rather less confident, but he came to the same conclusion, for he said if the Legislature had meant to include corporations they had failed to use language adequate to the purpose.

[For the recognised report of this case, see Appendix, page 126.]

#### ARE DIRECTORS OF A COMPANY PERSONALLY LIABLE?

It will be observed that some of the judges in the above case hinted at the possibility of a suit against the directors of a company individually. In June, 1887, the Pharmaceutical Society commenced a suit against the seven partners in a limited company trading as chemists and druggists at Edinburgh. The action was brought in the Summary Court, before Sheriff Rutherford. There were certain other complaints against unqualified individuals for having sold poisons in the same case. After hearing evidence and arguments, the Sheriff came to the conclusion that the respondent shareholders had infringed the Act, and gave judgment against them individually for certain fines. The defendants appealed to the High Court of Justice, where three judges agreed in reversing the Sheriff's decision. The Court held that the House of Lords' judgment in the London and Provincial Supply Association<sup>a</sup>



case was wide enough to cover this, and that they must be guided by it. There could be no appeal from this ruling.

INTERPRETATION ACT, 1891, DOES NOT AFFECT THE  
DECISION.

An "Interpretation Act" was passed in 1889, which provided, *inter alia*, "that, in the construction of every enactment relating to an offence punishable on indictment or on summary conviction, whether contained in an Act passed before or after the commencement of this Act, the expression 'person' shall, unless the contrary intention appears, include a body corporate." This does not affect the reading of the Pharmacy Act in relation to companies, as the penalty provided by section 15 is to be sued for by civil process. The offence created is not one "punishable on indictment or on summary conviction."

THE SELLER OF POISONS.

Section 1 of the Act (1868) says, "It shall be unlawful to sell or keep open shop for retailing, dispensing, or compounding poisons." Section 15 says, "Any person who shall sell or keep an open shop for the retailing, dispensing, or compounding poisons," not being duly registered, shall be liable to a penalty of 5*l.*, recoverable in the manner prescribed in the Pharmacy Act, 1852. This provision limits the right to sue for penalties incurred by infringements of this (15th) section to the Pharmaceutical Society.

One of the most keenly contested questions of interpretation which the Pharmacy Acts have presented has turned on the passages just quoted. The question occurred, Who is meant by the person who shall sell? Is it the person who shall actually conduct the sale (who may be the master or who may be an assistant), or does it mean always the person who keeps the open shop—that is to say, the employer?

The 17th section, which makes provision for the labelling of poisons, the entry of sales in a book, and so on, expressly states that "*for the purposes of this section the person on*



whose behalf any sale is made by any apprentice or servant shall be deemed to be the seller." The interpretation of the term is clear enough there, but it applies to that one section only; and the careful way in which a special construction is indicated for that one section goes some way towards proving that in the rest of the Act the intention was that the person who should sell was the person who should actually conduct the sale. On the other hand, it was argued that the sentence quoted above from the 17th section evidently contemplates as usual sales of poisons by apprentices and servants, the former of whom at least could not be qualified, and that, therefore, the Act could not have been intended to prohibit and penalise such sales in earlier sections.

In the case of the Pharmaceutical Society *v.* the London and Provincial Supply Association several of the judges dealt with this point. They came to the conclusion that limited companies, not being "persons," could not be prevented from carrying on business as chemists and druggists. But then occurred the objection that these associations, if unqualified, could sell poisons regardless of the Act. No, said their Lordships; that is not so. Lord Selborne, in his judgment, said: "The act of selling, the act of compounding, and every other act mentioned in these two sections (1 and 15) is struck at, whether done by the principal to whom the business belongs or done by the person whom he employs to carry on the business"; and, again, "he who sells, whether he be master or servant, whether he be the principal or the person delegated to conduct and manage the sales, is struck at by section 15"; and, further, "nothing more would be necessary if it were otherwise than that the business should belong to a person who does not himself carry it on, but who is qualified under the Act, and he might be at liberty to employ in the management of his business persons not qualified." In the same case Lord Blackburn, in the course of his judgment, said: "There can be no sale unless a person, a natural person, manages the sale, and that person, if unqualified, would, in my mind, clearly become liable to the penalty."



These explicit dicta seem to have been but little regarded by chemists generally, and for many years no action was taken in the sense suggested by them by the Pharmaceutical Society, though the point arose incidentally in several cases. But in September, 1889, at an inquest held by Mr. Braxton Hicks, coroner for Mid-Surrey, it appeared that a servant-girl had purchased a packet of vermin-killer, containing strychnine, at a chemist's shop one Sunday evening, and that the actual seller of the poison on that occasion was an unregistered assistant, who for the time was in sole charge of the shop. Mr. Braxton Hicks reported the case to the Pharmaceutical Council, by whom the unregistered assistant was sued in the Wandsworth County Court. Judge Holroyd, after hearing arguments, said: "The Act says that any unqualified person who sells poison is liable to a penalty of 5*l.* The person who sells is liable, whether he be master or servant or apprentice."

Judgment for the Society was therefore given, but the Judge expressed a hope that the case would go to a higher Court (reported in *THE CHEMIST AND DRUGGIST*, November 16, 1889). This course was adopted, a fund having been raised in support of an appeal. The case was argued in February, 1890, in the Queen's Bench Division of the High Court, before Baron Pollock and Mr. Justice Hawkins, and a full report of the proceedings was given in *THE CHEMIST AND DRUGGIST*, February 8, 1890. Mr. Justice Hawkins delivered the judgment of the Court on April 28, 1890. The Court held that the County Court Judge was right, and dismissed the appeal. The learned Judge, after reciting the principal sections of the Act, said:—

It had been contended by Mr. Finlay, on behalf of the appellant, that it was not unlawful under section 15 for an unqualified assistant to a duly-qualified chemist to sell poisons in his master's shop in the ordinary course of business; that the sale being a sale by him as a servant, the master was in law and in fact the seller, and that as the master was qualified the sale was lawful. It was further suggested that great inconvenience and hardship would result to small chemists who could not afford to employ properly qualified assistants if we were to rule



otherwise. We do not agree with the view thus presented, nor are we at all impressed by the suggestion of inconvenience or hardship. To our understanding nothing can be clearer than that the object of this Act was, beyond all other considerations, to provide for the safety of the public, and to guard as far as possible all members of the community from the disastrous consequences which are of so frequent occurrence arising from the sale of poisons by persons inadequately acquainted with their baneful properties. The whole object of the Act would be frittered away and the Act become a dead letter were we to declare by our judgment that any unqualified assistant can lawfully and with impunity sell any of the poisons to which the Act refers, unless upon each occasion of such sale he acts under the personal supervision of a qualified employer or a qualified assistant to such employer. By such personal supervision, we mean not merely presence in the shop or room where the sale takes place, but actual personal supervision, so that every individual sale shall be so guarded by the precautions prescribed by the Act that the safety of every individual member of the public may be provided for so far as the law can accomplish that object. Mr. Finlay suggested that the Legislature must have assumed that every qualified chemist who kept open shop would, if he required assistance, not be likely to employ an assistant otherwise than one of knowledge, and whose carefulness could be depended upon, and did not mean to enforce upon chemists the employment of no assistants but those duly qualified. This is true enough so far as regards the general business of a chemist's shop not involving the sale of such poisons as are contemplated by the Act, but it is otherwise where the assistant is to be entrusted with the sale of such poisons. To leave the selection of such an assistant, without regard to any qualification, to the discretion of the employer would, in our opinion, defeat the object of the Legislature.

In our opinion the object of the Legislature was to insist upon one uniform qualification for every person who should sell, whether on his own account or for any other person, such poisonous commodities—namely, registration under the section, based upon a certificate of fair skill and knowledge, granted after examinations by examiners carefully selected and specially appointed for that purpose. With such a certificate the holder of it may fairly be deemed to possess knowledge, not only of the general effect and operations of the various poisons with which he may be called upon to deal, but—what is quite as important, if not more so, for the public safety—the quantities in which such poisons may be harmlessly or beneficially taken, and the quantities which, if taken, would inevitably result in death. Section 17 fortifies us in the view we have taken, for in that section the Legislature



enacted that the person on whose behalf any sale is effected by an apprentice or servant shall be *for the purposes of that section* deemed the seller, and has said so in express terms. We are also strongly fortified in our view by the judgment in the House of Lords in the case of the Pharmaceutical Society *v.* the London and Provincial Supply Association. As regards the appeal made to us on behalf of the smaller chemists, we can only say that those who cannot afford to keep qualified assistants, if they desire for a longer or shorter period to absent themselves from their shops, must take precautions, either by locking up their poisons or by other means, to prevent the sale of any poisons in their absence. It has been argued that it is hard to punish the servant for that which he has in ignorance of the law, and in the interests of his master, done. This, however, is no answer to the action. We have only to deal with the law as it exists. We need hardly say that if mischief arose by reason of the master's negligently leaving an unqualified person in charge of his poisons, no punishment of the assistant under section 15 would exonerate the master from liability to civil proceedings; nor, if death ensued from such negligence, and the jury found it to be of a criminal and culpable character, would he be exonerated from the charge of manslaughter.

The Court refused leave to appeal, saying they entertained no shadow of doubt about the case. No further steps were taken.

Subsequent to this judgment the Pharmaceutical Society have sued and recovered penalties in a number of cases where it has been proved that unqualified assistants in stores and shops have sold scheduled poisons.

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The Pharmaceutical Society recovered a penalty against an unregistered person at Hamilton, in July, 1888, for selling poisons. The Sheriff, after hearing evidence, said he considered that the words "who shall sell," in the 15th section, were disjoined from the words "who shall keep open shop." The defendant had been on the register, and his name had been struck off by the Pharmaceutical Council. Thereupon a medical practitioner had become the proprietor, and the defendant was his assistant. The Sheriff said that the doctor could not possibly be in the shop except on rare occasions,



and that a man in such a position must have a qualified assistant in the shop.

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A somewhat similar case was heard in Glasgow in October, 1890. The Society prosecuted an unqualified person, who had made up and supplied prescriptions containing poisons. A qualified medical man, who said he was the owner of the business, testified that he had seen the prescription in each case before it was compounded, but he admitted he had not checked each step of the compounding. The Sheriff imposed fines on the unregistered assistant in each case.

The cases quoted hitherto define the "seller" under section 15.

#### THE SELLER UNDER SECTION 17

is to be the person on whose behalf the sale is made—that is to say, the employer. But questions of agency have several times arisen on this point. The leading case is that of *Templeman v. Trafford* (reported *C. & D. December, 1881*; 51 L.J. M.C. 4).

[In reading these cases it is necessary to carefully bear in mind the distinction between actions brought under section 15 and those brought under section 17. Under section 15 the Pharmaceutical Society only can sue. The infringement of the Act in such cases is generally that of keeping open shop as a chemist and druggist, or selling poisons, not being registered under the Act. Under section 17 anyone may prosecute. The offence is that of not exactly observing the requirements in regard to labelling, registration of sales, &c.]

An officer of the Trade Association bought a pennyworth of red precipitate at the defendant's shop. It bore the label of a duly-qualified chemist and druggist living in another part of the same city. The defendant was prosecuted for selling a poison not labelled with the name and address of the seller. He alleged he was only the servant of the chemist whose name the packet of poison bore, and that he was paid 1s. a week and commission. The chemist confirmed this, and



the Magistrates dismissed the summons. The Association appealed to the Queen's Bench, where Mr. Justice Grove reversed the Magistrates' decision, ruling that the defendant was not in the sense required by the Act the chemist's servant. "Seller" [within the meaning of the seventeenth section], said Mr. Justice Grove, "means the person who actually conducted the business of the sale—not the mere hand necessarily which handed over the article, but the person who kept the shop. . . . There are certain provisions as to things which have to be done at the time of sale—the seller must comply with them—such as entering the name of the purchaser in a book; a person living at a distance could not do this. . . . The seller was the person on the spot who kept the shop and had power to regulate the sale, and the packet was to be labelled with his name and address as the person controlling the sale." "Seller," Mr. Justice Lopes said, "means the person who keeps the shop or place where the poison is, or under whose control the shop or place is."

The following cases are noticeable in this connection. The judgments in those tried after 1881 were generally based on the decision of the High Court in *Templeman v. Trafford* :—

At Leeds Police Court a trader was charged with selling poison (oxalic acid) not labelled with the seller's name. The defendant, not being qualified to sell poisons, and not being a registered chemist and druggist, sold the poison under the name of his deceased predecessor in the business, who was registered. The Stipendiary imposed the mitigated penalty of 50s. and costs.—*C. & D., February, 1880.*

At Birmingham a person (not registered) trading as a chemist and druggist was charged with selling poison not labelled with seller's name. The defendant admitted the sale, but said he sold on behalf of his employer, a registered chemist and druggist, whom he called as a witness. The latter said he lent defendant his name and 200*l.*, for which he received interest, and defendant managed entirely. Defendant said the profits were divided, but he had no balance-sheet nor written agreement. The Bench fined defendant 20s. and costs.—*C. & D., February, 1880.*



A stationer sold red precipitate in packets, bearing the name of a chemist and druggist in another town. Prosecuted by the Trade Association under the 17th section. Fined 1*l.*, including costs.—*C. & D., February, 1882.*

A chemist carrying on business at Dalston, London, had a branch shop at Carmarthen, which was managed by an unqualified person. The latter was prosecuted by the Chemists' Trade Association for selling oxalic acid labelled with the name of the chemist who claimed to be the real owner of the business. The Magistrates, basing their opinion on Mr. Justice Grove's definition of a seller, fined the defendant 10*s.* and costs.—*C. & D., March, 1882.*

At Peterborough, on April 9, 1884, the Chemists' Trade Association prosecuted a hawker of drugs, he not being a duly qualified chemist, who sold a poison from a caravan. The label bore the name and address of a chemist and druggist at Peterborough, who informed the Magistrates that the travelling chemist's shop belonged to him, and that the defendant was his servant on salary and commission. Fined 6*s.* and costs.—*C. & D., April 15, 1884.*

#### EXECUTORS OF REGISTERED CHEMISTS.

The 16th section of the Pharmacy Act is sometimes referred to as "the widows' clause." It will be noticed that there is no special reference in the Act to widows as such. The section applies to executors, administrators, or trustees, and only affects widows who may be acting in one of those capacities. The section referred to provides that—

Upon the decease of any pharmaceutical chemist or chemist and druggist actually in business at the time of his death, it shall be lawful for any executor, administrator, or trustee of the estate of such pharmaceutical chemist or chemist and druggist to continue such business if and so long only as such business shall be *bonâ fide* conducted by a duly qualified assistant; and a duly qualified assistant, within the meaning of this clause, shall be a pharmaceutical chemist or a chemist and druggist registered by the registrar under this Act.

For many years it was assumed that there must be some limitation of the time during which an executor might carry



on a business under this exemption, and in 1886 the Pharmaceutical Council prosecuted a widow executrix on the ground that she was exceeding the permitted limitations. The case was fully reported in *THE CHEMIST AND DRUGGIST*, vol. xxix., page 664. The facts were shortly these:—A duly qualified and registered pharmaceutical chemist died in 1873. By his will he appointed his wife his sole executrix, and bequeathed to her the whole of his estate. She continued his business, which was conducted by a duly registered chemist and druggist. In 1886 the Pharmaceutical Society commenced an action against her for two penalties—one for 5*l.* for retailing, dispensing, or compounding poisons—to wit, opium and syrup of chloral; and a second, of like amount, for taking and assuming the title of “chemist and druggist.” The labels used in the trade displayed the surname only, which, of course, was that of the defendant, as it was that of the deceased proprietor; furthermore, there was no contest as to the fact that the defendant had retailed, dispensed, or sold poison in the terms charged against her. The defence pleaded was the exemption which is now being considered. The County Court Judge (Sir Richard Harrington) said in the course of his judgment that the real question he had to determine was whether the word “executor” included every kind of executor, or whether it was limited to an executor who had an estate put upon him for the benefit of others, and not for his own. He failed to see any reason why he should enlarge the words of the statute. He could see no reason for making the word “executor” mean an executor during a limited time only, and he gave judgment for the defendant. He, however, urged that the question should be carried to a higher Court; but the Pharmaceutical Society, after taking time to consider the matter, withdrew from any further contest respecting the issue raised.

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In the course of the action *Pharmaceutical Society v. London and Provincial Supply Association (Limited)* the



Attorney-General was arguing (for the Society) that the exemption allowing executors to carry on the business of a duly qualified person deceased with the aid of a qualified person was evidence that the Legislature, by specifying that as an exceptional case, did not intend to allow any unqualified person to carry on the business with the aid of a qualified assistant. The Lord Chief Justice (Cockburn), following the Attorney-General's arguments, remarked: "The widow of a deceased chemist will not be entitled to go on keeping up his business further than is necessary to the winding-up of the estate; she is not to go on for the rest of her life because she employs a qualified assistant." This, of course, was not a judgment; it is only quoted to show how the Act had been read by an eminent authority.

#### PREPARATIONS OF POISONS.

As soon as the Pharmacy Act, 1868, had been passed, questions were suggested which had not occurred to those who framed it, and among these one of the most perplexing was that which called for a definition of the term "preparations." For example, the Act said that preparations of opium and poppies were to be treated as poisons; it did not apply the term to preparations of strychnine. It was obvious that to label paregoric and paregoric lozenges "poisons," and to let a strong solution of strychnine, or of some other deadly poison, go unlabelled, was a *reductio ad absurdum*. The last-named difficulty was to some extent met by adding to the schedule "preparations" of the stronger poisons; but there was still room for doubt. The question whether the chemist must apply the word "poison" to preparations which are comparatively harmless, and thus tend to depreciate its effect, was felt to be of considerable importance. Consequently early in 1869 a "case" indicating the difficulty was drawn up by the Pharmaceutical Society, and submitted to the Privy Council. To this a reply was sent from the Medical Department of the Privy Council on March 6, 1869, and this, with the case, was published in the *Pharmaceutical Journal*, April,



1869, page 566. The reply was signed by Mr. John Simon, and stated as follows :—

My Lords, having given their best consideration to the subject, are of opinion that the "preparation" of a poison in the Pharmacy Act, 1868, means a compound which, like the poison of which it is a preparation, is in itself deadly or dangerous, and that it does not mean a compound which is in itself perfectly harmless, although into its composition may enter a poison, or the preparation of a poison, which taken alone would be dangerous or deadly. My Lords apprehend that questions of fact must be dealt with as they arise; for it is possible to take so much of a compound perfectly harmless if taken in reasonable quantities (*e.g.*, carbonate of soda) as to destroy life, and it is possible that a particular paregoric lozenge might contain a deadly amount of poison; but it seems to their Lordships that, for general purposes, and as matter of legal interpretation, these extreme and barely supposable cases may be disregarded, and that the Pharmaceutical Society may safely act upon the test given above.

My Lords, however, are advised that it is not feasible to define the precise proportion of poison in any preparation which may bring it within the Act.

#### PROPRIETARY MEDICINES CONTAINING POISON.

In January, 1882, Mr. Poland, instructed by the Director of Public Prosecutions, supported a case at the Hammersmith Police-court against a chemist at Kensington for having sold to an inspector two bottles of Hunter's Solution of Chloral not labelled "poison," nor with the seller's name and address, as required by the 17th section of the Pharmacy Act. The medicine was sold with a medicine-stamp attached. Dr. Dupré proved that one bottle bought contained 264 grains of chloral hydrate, and the other 84 grains. It was an aqueous solution. Mr. Besley defended, and argued that the exemption in the 16th section took patent medicines out of the statute, but the Magistrate decided that "the article was a poison on the medical evidence." He imposed a penalty of 40s., and 2s. costs. The defendant, having given notice of appeal, was bound over in his own recognisances of 40l. to prosecute the same. The appeal, however, was not prosecuted.

A fine was paid (without prosecution) in August, 1877,



by an unregistered person in Lincolnshire, who had sold under the medicine-stamp "Smith's Black Sedative Drops, commonly known as Laudanum (Poison)."

An unregistered person was prosecuted at Horncastle in September, 1879, by the Pharmaceutical Society for selling laudanum not properly labelled. The label bore the name of a chemist, and the bottle had a medicine-stamp, and was sold for 8½*d.* Defendant was fined 2*l.* 10*s.*, and costs 2*l.* 12*s.* 6*d.*

In March, 1889, a City chemist was prosecuted at the Mansion House, before the Lord Mayor, on a charge of having sold a mixture described as syrup of camphor, or cough-linctus, which mixture contained nearly ½ grain of acetate of morphia in each fluid ounce, the bottles in which such mixture was contained not being distinctly labelled with the name of the article, "Acetate of Morphia," and with the word "poison." The prosecution was directed by the Public Prosecutor, and arose out of the death of a child at Wandsworth. An inquest was held before Mr. A. Braxton Hicks, coroner, when it appeared that the child had died through drinking a quantity of the above syrup. The mother of the child said had she known the preparation to be a poison she would not have left it about. On the bottle was a label worded "To be kept out of the reach of children, as it is sweet, and they might take too much." The Coroner pointed out that this preparation was not a "patent" medicine, though it bore a medicine-stamp, and did not, therefore, come within the exemption named in the 16th section of the Pharmacy Act; but that in any case it should have been labelled "Poison." At the Mansion House the defendant admitted the facts, but said that it was the custom to sell such medicines without a poison-label. The Lord Mayor intimated some doubt as to the words of the Act, which he thought might be clearer. They provided for labelling a poison, but did not say it was necessary to label every mixture or compound containing that poison. He thought there was a wide distinction. He ultimately imposed a penalty of 10*s.*, and 2*s.* cost of the summons.



Mr. Gill, who represented the Public Prosecutor on this occasion, remarked, "The defendant seems to be under the impression that the fact of its having upon it a Government stamp in some way made it a patent medicine, which is an error a great many persons labour under." Mr. Braxton Hicks, the coroner, made similar statements at the inquest (reported in *THE CHEMIST AND DRUGGIST*, February 15, 1889); and attention had been directed to the subject by the following passage, which occurred in the "Handy Book of Medicine-stamp Duty," by Mr. E. N. Alpe, of the Solicitors' Department of the Board of Inland Revenue. Mr. Alpe said (page 20):—

The meaning of the technical phrase "patent medicine" has not yet been the subject of judicial interpretation; but there can be scarcely any doubt that it covers only those preparations which are strictly patent medicines—that is, medicines sold under the authority of letters patent—and that it does not include other dutiable medicines which are only called patent medicines in the loosest popular language. This view is borne out by the context, in which the same phrase occurs in another statute, the Adulteration of Food and Drugs Act (38 & 39 Vict., c. 63), where patent medicines are distinguished from proprietary medicines.

It will be seen, therefore, that in the opinion of eminent authorities, as well as in the magisterial decisions referred to above, when the Act says in the 16th section that "Nothing hereinbefore contained shall extend to or interfere with . . . the making or dealing in patent medicines," the exemption can only apply to medicines actually patented. That is to say, no one but registered chemists and druggists can legally sell those which come within the description of statutory poisons. Whether this be so or not—and there is still no High Court decision on the point—it was always certain that all medicines, patent or not, if they come within the description of poisons, are subject to the requirements of the 17th section of the Act—that is, as to labelling—as the exemption only applies to what is contained in the sections preceding the 16th.



The action which attracted most general attention to this subject was a prosecution by the Treasury of Mr. Davenport, under the 17th section of the Pharmacy Act, at Bow Street Police-court, on April 30, 1892, "for having unlawfully sold by retail opium and chloroform contained in a preparation known as Dr. Collis Browne's chlorodyne, without distinctly labelling the wrapper of the bottle in which the poisons were contained with the word 'poison.'" The Director of Public Prosecutions had been instigated to this action by the Parliamentary Committee of the British Medical Association, by whom the analytical evidence had been procured. For the prosecution the purchase of six 1-oz. bottles and six 2-oz. bottles of "Dr. J. Collis Browne's chlorodyne," at the shop of the defendant at 33 Great Russell Street, Bloomsbury, was proved. The assistant in the shop was told that the purchases had been made for the purpose of analysis, as the Treasury considered that the ingredients came within the Pharmacy Act, 1868. Neither on the wrapper nor on the label was there the word "poison." Dr. August Dupré and Dr. B. H. Paul proved that their analyses of the article yielded a proportion of 2 grains of morphia to the ounce, and a certain quantity of chloroform. Mr. Poland, for the defence, argued that this preparation was of the class exempted in the Act under the term "patent medicines." He endeavoured to establish the contention by cross-examination that there were, in practice, no actually patented medicines, but he called no witnesses. If it were decided that this was not a patent medicine, it would have the ridiculous result that the article could only be sold by a qualified chemist and druggist. Mr. Lushington (the Magistrate) asked why this was a ridiculous result; and Mr. Gill who represented the Treasury, said he agreed entirely that the result would be as Mr. Poland had stated it.

Mr. Lushington, in giving judgment, said he should not limit the definition of a patent medicine within the meaning of the Act to a medicine which was the subject of an existing patent. He should adopt the definition of the statute 52 Geo. III., c. 150, which Mr. Poland had quoted, and



should hold that patent medicines were those "which have at any time heretofore been, now are, or shall hereafter be prepared, uttered, vended, or exposed to sale under the authority of any letters patent under the Great Seal." He should hold that to be the real and full definition of a patent medicine within the meaning of this Act. But it was quite clear that in that statute a distinction was drawn between patented medicines and other nostrums, as they were called, although they both were subject to the licence and stamp-duty. He held that the poison had been sold by Mr. Davenport, and that it had been sold without the bottle being distinctly labelled with the word "poison"; and he should hold that the 16th section of the Pharmacy Act, which said that "nothing hereinbefore contained shall apply to patent medicines," did not apply, and that the defendant was liable under the Act. The penalty of 5*l.* would be imposed, with 5*l.* 5*s.* costs.

The case was not carried to a higher Court, and in the case of chlorodyne and several other proprietary medicines of large sale, labels have since been attached to the bottles stating that, as the medicines contain a small portion of morphia (or whatever the poison may be), they are labelled "Poison" in accordance with the Pharmacy Act.

The Pharmaceutical Society, too, it is understood, have recovered numerous penalties under the 15th section of the Act from unqualified vendors who have sold such medicines. The Association of Owners of Proprietary Medicines and certain grocers' Associations have intimated their intention to contest this interpretation of the Act when a suitable case arises, but up to the date of the publication of this book no effect has been given to these intimations.

#### ILLEGAL USE OF TITLES.

In January, 1887, the Pharmaceutical Society recovered a penalty at the Durham County Court from an unregistered person who had been using the title of "botanic chemist."



A case was mentioned in May, 1886. An unqualified person bought a business, and continued to carry it on, dropping the sale of poisons, and wiping out the title of "chemist and druggist" from the shop-front, but using a label describing himself as "—— (late ——, chemist)." The Pharmaceutical Society demanded a penalty, on the ground that the liability is incurred by anyone who shall take, use, or exhibit the title. The person attacked took legal advice, but paid the penalty.

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In November, 1882, the Pharmaceutical Society sued a person at Stockport for describing himself as "analytical chemist," he keeping a drug-shop, and not being a registered chemist and druggist. Judgment for 5*l.* was given for the plaintiffs, with 5*l.* 12*s.* costs.

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The Liverpool County Court Judge gave judgment against an unqualified person in that city, in July, 1889, in two suits. One was for exhibiting the title "druggist." It was said that the only place where this title had been used was on a printed handbill supplied by the proprietor of Beecham's pills.

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An unregistered person at Leeds was sued in July, 1888, for that, being unregistered, he had used the title "wholesale druggist" on his shop-sign and on labels. Judgment was given for a penalty of 5*l.*

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In November, 1887, the Pharmaceutical Society sued an unregistered person at Burton-on-Trent for two penalties under the 15th section. One was for the sale of a poison, which was admitted; the other was for having used the title "chemist." The defence was that the word "chemist" had been attached to a circular with the defendant's name and address, by a Leeds firm, who had printed this for him, without his knowledge. Defendant said he always tore off that part of the circular with the word "chemist" on it. But a perfect



copy of the bill was produced, and judgment was given for the Society on both complaints.

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Questions are often asked whether the Pharmaceutical Society could prevent any person other than a pharmaceutical chemist using the title "pharmacy" to designate his shop—as, for instance, "The West-end Pharmacy," &c. The question has never been raised in a court, but the presumption is that as the word has come into general use to designate a chemist's shop, a conviction could not be obtained. If at all, the use of the title by a person other than a pharmaceutical chemist would have to be treated as an offence under section 12 of the Act of 1852, which prohibits the use of any name, title, or sign implying that the person using it is registered under that Act.

#### PARTNERSHIP OF UNQUALIFIED WITH QUALIFIED MEN.

In February, 1887, the Pharmaceutical Society proceeded against an unqualified partner in an Edinburgh firm. The qualified partner said it was an arrangement that he should do the dispensing and be referred to in cases of doubt. The unqualified partner, however, had sold to a witness some laudanum, and the Sheriff held that this was an infringement of the Act, which required the seller of a poison to be qualified. The unqualified partner was fined 2s. 6d., with costs 3l. 9s. 6d.

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An unregistered person at Nottingham was sued by the Pharmaceutical Society at Nottingham County Court in June, 1883, for infringement of the 15th section by keeping open shop for the sale of poisons. The defendant said he did not keep open shop for the sale of poisons, but for the sale of pharmaceutical preparations. He had a registered chemist as assistant, and he allowed him to sell poisons on his own account. The assistant supported this evidence, but the Judge considered the case proved, and gave judgment for the Society with costs.



A jeweller took over the stock of a bankrupt chemist and druggist, and carried on his business as a medical hall. A registered chemist living elsewhere lent his name as partner. The Pharmaceutical Society prosecuted the jeweller in July, 1885, under the 15th section, and recovered the penalty.

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A registered chemist and druggist had as a partner in his business an unregistered man, and they carried on trade under the style of their joint names as "shipping druggists." A fine was recovered from the unregistered man under these circumstances; but the law was carried still further, for afterwards, when the unregistered person had sold his interest in the business to his former partner, and was *bonâ fide* employed as an assistant only, the trade being continued under the same style, a further penalty was recovered from the unregistered assistant for having permitted the use of his name coupled with the word "druggist." This case was finally so settled after argument in the Divisional Court of Queen's Bench, before Justices Mathew and Cave, on a case stated by the County Court Judge. (THE CHEMIST AND DRUGGIST, vol. xxiv., p. 163.)

#### KNOWN TO THE SELLER.

A chemist was prosecuted at Manchester in July, 1887, by the police, before the Stipendiary, for an alleged infringement of the 17th section. He had sold some vermin-killer to a woman, who had afterwards poisoned herself with it. The sale was entered in the poisons-book, but was not witnessed, and it was alleged that the purchaser was not known to the seller; in fact, the defendant admitted that he did not know her by name, but knew her as a customer. She had given her name correctly, but not her own address. For the prosecution it was urged that such a degree of knowledge was necessary as would assure the vendor that the entry of the name and address in the book was true. For the defence it was argued that the knowledge required by the Act was so much as would enable the seller to identify the purchaser. The Stipendiary said he thought the defendant could fairly say



that the purchaser was not unknown to him, and he dismissed the summons, but remarked that it ought to be understood that the onus was thrown on the seller of showing that the purchaser of a poison was not unknown to him.

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In a police prosecution at Salford, under the 17th section, in February, 1889, where a chemist was charged with having sold some vermin-killer to a woman, the purchaser not being known to the seller, the Stipendiary who heard the case dismissed the summons, saying that the Act under which the summons was taken out was a penal statute, and it was incumbent on the prosecution to make out affirmatively that the person to whom the poison was sold was unknown to the seller. It did not require an intimate knowledge of any person in order to comply with the Act. The statute must be construed strictly, and it would have to be proved, although he did not say it must necessarily be so, that the person selling had not previously seen the purchaser. Something approaching that, at any rate, would be required. If a person, for instance, had been seen passing the shop once a week for six or eight weeks, the druggist would probably say, "I know that face; she is a respectable woman." He (the Magistrate) was not prepared to say that that would not be enough.

[The two opinions quoted above are instructive in being so curiously contradictory. The Manchester Stipendiary says the onus of proving that the purchaser was not unknown to him is on the seller; his neighbour at Salford lays it down that the onus to make out that the purchaser was unknown to the vendor is on the prosecution. Another case involving interpretation of the term, "known to the seller," is noted under the Arsenic Act.]

#### ASSUMED NAME OF SELLER.

A person trading under an old-established title (not his own name) at Birmingham was prosecuted by the Trade Association in October, 1877, for selling a poison not labelled with his name and address. The poison sold was oxalic acid, and it was labelled with the name of the poison, the word



"poison," and the name and address, the name used being that under which the business was carried on. It was admitted that defendant was the owner of the business. He was fined 10s. and costs.

[We venture to doubt the soundness of this decision. It is legal for a man to assume a fictitious name, and while he assumes it that is his name. Therefore when he, trading under a certain name, uses that name on his poison-labels he fulfils (we should think) the requirements of the 17th section of the Pharmacy Act. If the interpretation of the law as declared by the Birmingham Magistrates be correct, a great many of our principal chemists are frequently liable to penalties. It should be added that in the case quoted above the defendant was unregistered. He was undoubtedly liable to a penalty under the 15th section for keeping open shop for the sale of poisons, but that fact did not affect the question before the Magistrates, as the prosecution was under the 17th section.]

#### HOMŒOPATHIC MEDICINES AND THE PHARMACY ACT.

When the Pharmacy Act was being discussed in the House of Commons, Mr. M. Chambers asked whether the proposed regulations would apply to the homœopathic medicines usually sold, which were often preparations of poisons. Mr. Lowe doubted "whether a bottle full of homœopathic medicine could do much harm," and the subject dropped. Soon after the Act was passed a meeting of homœopathic chemists was held to discuss its effect, and an opinion was expressed that the line should be drawn somewhere in regard to the strength of medicines which ought to be labelled "Poison," but no definite result was arrived at. The question has cropped up occasionally, but the practice has been not to label the dilutions. The mother-tinctures of drugs defined as poisons by the Act should be labelled "Poison," and none but registered chemists are justified in selling them.

#### POISONS AS PHOTOGRAPHIC CHEMICALS.

In May, 1886, the Trade Association prosecuted a West-end general trader, at the Marylebone Police-court for having



sold cyanide of potassium without fulfilling the requirements of the 17th section of the Pharmacy Act. It was stated that all the photographic houses in London sold the article in the same way without registration. A fine of 20s. and costs was imposed.

#### PROSECUTIONS UNDER THE 15TH SECTION.

It is provided by the Pharmacy Acts that prosecutions under the 15th section of the Pharmacy Act must be undertaken by the Pharmaceutical Society in a county court. But this was questioned in a case tried at the Oldham County Court in 1869-70, the Judge of that court refusing to hear a plaintiff unless he had before him the opinion of the Attorney-General that such cases came within his jurisdiction. An opinion was therefore obtained from the then Attorney-General, Sir R. P. Collier. It stated that actions to recover the penalty of 5*l.* against any person within the description given in section 1 of the Pharmacy Act, 1868, must be brought in the county courts in England and Wales, or in any court for the more easy recovery of small debts or demands when the proceedings are by plaint, but not in a superior court. The action must be brought under section 15 of the Pharmacy Act, 1868, and in the manner provided by section 12 of the Pharmacy Act, 1852. No authority or fiat of the Attorney-General or of other public officer was necessary. In any such action it is not optional with the judge to refuse costs. Section 13 of the 1852 Act declares that "the party who shall prevail shall recover his full costs of suit or of such other proceedings."

#### APPLICATION OF THE PHARMACEUTICAL SOCIETY'S FUNDS TO TRADE PURPOSES.

In January, 1879, a special meeting of the Pharmaceutical Society was held, called in due form to consider a proposal that the Pharmaceutical Council should be asked to contribute towards the expenses of a trial (*Apothecaries' Society v.*



Shepperley) which the Chemists and Druggists' Trade Association was defending. Before the meeting the Pharmaceutical Council had submitted a case to Sir John Holker (Attorney-General), Mr. Lumley Smith, and Mr. H. Burton Buckley. Counsel were asked whether, in view of the Royal Charter, statutes, and by-laws by which the Society was organised and governed, such a requisition, supported by a resolution adopted by the special meeting, could have any, and, if so, what, legal effect. Counsel advised that it could have no legal effect, that the management of the Society's funds is vested in the Council, and that in the disposition of them the Council are not subject to the control of the members. That, further, any such expenditure of the funds would be illegal. That the Council might themselves apply the Society's funds in the protection of the interests of the trade, but could not delegate their power to another body. At the meeting this case and opinion were read. The meeting passed a resolution affirming the advisability of the contribution suggested by a large majority; whereupon the President stated that, according to counsel's opinion, the resolution could have no legal binding effect.

#### PERSONATIONS AT THE EXAMINATIONS.

In August, 1877, the Pharmaceutical Society prosecuted, at the Central Criminal Court, three young men on a charge of conspiracy. One of these had presented himself at Brighton and at Reading in the names of the other prisoners respectively with the view of passing the Preliminary examination. He had been guilty of a similar offence previously. He was sentenced to six months' imprisonment. The other prisoners were required to enter into recognisances to come up for judgment when called upon.

#### SECOND OFFENCES UNDER THE ACT.

In a case of infringement of the 17th section, prosecuted by the Trade Association at Birmingham in April, 1887, Mr.



Porter, who appeared for the Association, stated that, this being a second offence, the defendant was liable to a penalty of 20*l*. The magistrates' clerk said, however, that he should advise the Bench that this could not be claimed, as it was not charged as a second offence on the summons. A fine of 20*s*. and costs was imposed.



## ATTEMPTS TO AMEND THE PHARMACY ACT.

IN January, 1881, a Bill was published which had been drafted by the Pharmaceutical Council with a view of amending the Pharmacy Act. The defeat in the House of Lords on the company question was the primary motive of the Bill, but it was thought that the opportunity might be used to get several other conditions enacted. Clause 1 was to make it lawful to appoint other persons than those residing in Scotland to the Scottish Board of Examiners; clause 2 would give power to provide for dividing the examinations by means of by-laws; clause 3 was designed to bring to an end the right of registration for persons in business before the passing of the principal Act; clause 4 would allow medical and pharmaceutical qualifications to be held at the same time, repealing section 11 of the 1852 Act; clause 5 was to limit the right of executors, &c., to carry on business to three years; clause 6 was to transfer from the Pharmaceutical Society to the Registrar-General the cost of certificates of death forwarded by local registrars; clause 7 was to empower the registrar to inquire as to the proprietorship of businesses purporting to be those of chemists and druggists; clause 8 was to limit to registered chemists and druggists the right to dispense medical prescriptions or to sell patent medicines containing poisons; clause 9 was to bring penalties to the Pharmaceutical Society; clause 10 to compel the manufacturer of a patent medicine containing a poison to label it as such; clause 11 was to enable vendors of poisonous patent medicines not properly labelled to recover penalties paid from previous vendors; clause 12 provided that penalties under this Act should not exempt from other penalties;



clause 13 made persons keeping open shop liable for the sales of their assistants, &c., and defined "persons" in the 15th section of the 1868 Act to include corporate bodies; clause 14 would exempt all registered chemists from jury service.

Clause 1 was abandoned in deference to Scotch opposition, and clause 5 was strongly attacked, but was retained by the Council in their draft.

The Bill was submitted to the Privy Council, but that body did not see their way to introduce it as a Government measure. In July of the same year, however, the Duke of Richmond, Lord President of the Privy Council, introduced to the House of Lords a Sale and Use of Poisons Bill, by which it was proposed to forbid the sale of a scheduled poison to persons under twenty-one years of age, or to persons representing themselves as or known to be servants, except under special conditions, under a penalty of 10*l*. Whenever a poison was sold to a servant, a copy of the entry in the poisons-register was to be posted to the master. Penalties were fixed for false declarations by purchasers. The poisons-register to be open at all reasonable hours to the inspection of justices or police officers. It was proposed to add hellebore, butter of antimony, oil of vitriol, spirits of salts, nitric acid, and salts of copper to part 2 of the Poisons Schedule. The Bill was framed in the interests of stock-owners, and was withdrawn in a few weeks.

In February, 1882, the Pharmaceutical Council, basing their action partly on the Bill just mentioned, resolved that the following substances ought to be deemed poisons within the meaning of the Pharmacy Act:—

Sulphuric acid (commonly called oil of vitriol).

Hydrochloric acid (commonly called spirits of salts).

Nitric acid (commonly called aqua fortis).

Solution of chloride of antimony (commonly called butter of antimony).

Carbolic acid.

Hellebore.

Nux vomica and its preparations.

Vermin-killers containing phosphorus,



In August, 1882, it was announced that the Privy Council acceded to the proposal only with regard to *nux vomica* and its preparations. Pending the consideration of the expediency of further legislation as to the sale of poisons they declined to sanction restrictions on the sale of the other substances.

In 1883 the Pharmaceutical Council, having been asked by the Privy Council to formulate their views as to new legislation respecting the sale of poisons, and having had interviews with representatives of the Department, drafted a lengthy Bill, the principal provisions of which were:—

To create a schedule of "poisonous" articles, which might be sold by anyone if properly labelled. The drugs to be thus scheduled were sulphuric, hydrochloric, nitric, and carbolic acids, and butter of antimony. Wholesale dealers to keep a record of their sales of poisons for twelve months. Patent medicines containing poisons to be labelled and sold only by registered chemists. Branch shops to be in charge of qualified men. Power to make curriculum arrangements, and power to give membership of the Society to Minor men. There were, besides, clauses to give the Pharmaceutical Society penalties obtained, to charge the fees paid to registrars of deaths for information of deaths of chemists to the Registrar-General, and to enable the registrar under the Act to ascertain the names of proprietors of businesses.

This Bill was in the Privy Council office for over twelve months, but in February, 1884, the secretary of the Privy Council wrote to the Pharmaceutical Council intimating that their Bill would not be adopted by the Government, but that the Lord President would himself introduce a Bill shortly.

This promise was not redeemed until March, 1885. Then Lord Carlingford (Lord President of the Privy Council) brought forward in the House of Lords a Bill in which it was proposed to deal with the whole subject of the sale of poisons. The Arsenic Act was to be repealed, as well as the sections of the Pharmacy Acts which applied to the sale of poisons. A schedule of poisons was drafted in



three parts. Parts 1 and 2 contained poisons to be sold as under the Pharmacy Act, and by chemists only. To the first part digitalin and its preparations, and preparations of savin, were added; and to the second part lobelia, digitalis, and Indian hemp and their preparations, soluble oxalates, and nitro-benzol and its preparations. Then a third part was proposed, in which were placed sulphuric, hydrochloric, nitric, and carbolic acids, butter of antimony, and chloride of zinc and its solutions. These were to be labelled "Poison," with name and address of seller, but their sale was not restricted to chemists. The regulations concerning arsenic were to be re-enacted. It was proposed further to transfer from the Pharmaceutical Society to the Privy Council control of regulations respecting the keeping and selling of poisons, and to give to the latter body alone power to add to the schedule. Patent medicines containing poison were to be labelled "To be used with caution"; companies employing a qualified assistant were to be legalised; servants and their masters infringing the Act were all to be liable to penalties; and power was to be given to the Privy Council to erase the names of chemists from the register under certain circumstances. The Bill was made applicable to Ireland.

It passed a second reading in the House of Lords on March 19, but the Earl of Milltown was induced to oppose the committee stage. Lord Carlingford in consequence proposed to send the Bill to a select committee, to which Lord Milltown consented. The select committee was, however, never nominated, and the general election towards the end of the year swept this proposal among others into oblivion.

Meanwhile the Pharmaceutical Council had resolved to endeavour to establish a compulsory curriculum as a precedent to the qualifying examination by means of by-laws. These were framed and confirmed as required by the charter and section 2 of the Pharmacy Act, 1852, at three meetings of the Council and at a special meeting of the Society. But the Privy Council considered that "by-laws which impose any precedent conditions upon persons who



tender themselves for examination under the provisions of the Pharmacy Act, 1868, are contrary to section 6 of that Act," and they therefore declined to sanction these. This was in February, 1886.

In February, 1886, the Pharmaceutical Council resolved to recommend to the Privy Council the addition of the following substances to the Poisons Schedule of the Pharmacy Act, 1868:—

## PART 1.

Nitro-glycerine and its preparations.  
Digitalin and its preparations.  
Preparations of savin.

## PART 2.

Soluble oxalates.  
Nitro-benzol and its preparations.  
Lobelia and its preparations.  
Indian hemp and its preparations.

They had been asked by the Privy Council to propose nitro-glycerine and its preparations, and the other substances were quoted from the Government Bill of the previous year. In sending the resolution, they also referred to carbolic acid, but did not include it in their recommendation, for the reason that the Privy Council had already rejected a resolution in which it was named. In April, 1886, the Privy Council replied, intimating willingness to sanction the addition of nitro-glycerine and its preparations to the schedule, but not the other drugs, as a Bill might be brought in shortly to amend the law relating to poisons. But the Privy Council could not sanction a part of a resolution and reject the rest. They desired, therefore, that the Pharmaceutical Council would pass a new resolution recommending nitro-glycerine and its preparations only. There had been some opposition to the addition of this medicine to the schedule, but the Pharmaceutical Council felt bound to pass the resolution suggested, as they could not go back on their previous recommendation. This was formally done, but the Privy Council never gave the required sanction.

Early in 1887 the Pharmaceutical Council drafted a Bill which aimed simply to acquire powers enabling them to divide the qualifying examination and enforce a compulsory curriculum. This Bill was taken charge of by the Earl of Milltown, and read a second time in the House of Lords on



March 17, 1887, passed through committee, with slight verbal amendments, on March 18, was reported on March 22, and read a third time on March 24. Dr. Farquharson took charge of the Bill in the House of Commons, and it passed its second reading there on April 4. Dr. Clark opposed the second reading, and two Irish members discussed it. The division showed 76 votes in its favour and 22 against it. At the next sitting of the House Dr. Farquharson tried to get the Bill into committee, but was defeated in this attempt by 93 votes to 29. No further progress was made with the Bill.

In 1888 the Bill was again brought forward. A few alterations were made in the draft to meet the amendments which some members of Parliament had put on the paper in the previous session. The certificate of having served a three-years' pupilage was made applicable to hospitals and dispensaries as well as to chemists' shops, and it was made acceptable if the pupilage had been served with chemists and druggists qualified in accordance with the law of any country in which they might carry on business. Another objection which had been raised by the British Medical Association was directed against the danger of leading pharmaceutical students towards medical practice by teaching them *materia medica*. This was met by stating that the Act should be construed as one with the Acts of 1852, 1868, and 1869, which provide that the qualification shall not entitle chemists and druggists to practise medicine. Another amendment had been proposed in the House of Commons—namely, that the Act should not entitle the Pharmaceutical Society to prescribe the places where or the persons by whom the courses of instruction should be given. This was ignored in the new Bill.

The Bill was again taken charge of by the Earl of Milltown, and passed its second reading on February 24. In Committee, on March 4, Lord Milltown moved an addition to the 2nd clause of the Bill, requiring that every person who should keep more than one open shop should employ at each branch a duly qualified assistant.

There was a rather animated discussion on this proposi-



tion, several legal lords questioning whether the existing law did not already provide against the alleged unsatisfactory condition.

The Bill, with the additional sections, passed its third reading in the House of Lords on March 16. In the House of Commons the opposition to the new clause was so urgent from unqualified managers that the sponsors of the Bill, Sir H. E. Roscoe and Dr. Farquharson, undertook to introduce a clause which would exempt men of a certain status from its operation. Notwithstanding many attempts, however, the Bill never reached the second-reading stage.

In 1889 the Pharmaceutical Council drafted another Bill, substantially the same as the one they had submitted the preceding year, but they did not include the branch-shop clause. Their Bill was this time introduced into the House of Commons, backed by Sir H. Roscoe, Dr. Farquharson, Sir T. Robertson, Mr. Craig, Sir T. Lawrence, and Sir G. Hunter, but it never reached a second reading.

Another Bill was drafted in 1890, in which, besides the curriculum proposals, clauses were introduced whereby it was intended to make all chemists and druggists eligible for membership of the Pharmaceutical Society, and to entrust to chemists exclusively (with saving provisions in regard to medical men) the duty of compounding medical prescriptions. This Bill was never introduced to Parliament.

Another Bill, containing similar proposals, with the addition of a clause providing for the exemption of all chemists from jury service, was introduced into the House of Commons in 1891 by Sir H. E. Roscoe, and was backed also by Dr. Farquharson, Sir Trevor Lawrence, Sir Guyer Hunter, and Mr. H. S. King. Opposition to the Bill was organised by the herbalists, who objected to the dispensing monopoly proposed, by unqualified branch-managers, and by the Scotch shopkeeping doctors, and six members of Parliament gave notices of opposition, but the Bill never reached the second-reading stage.



## THE PHARMACY ACTS

## PASSING THROUGH PARLIAMENT.

WE append below a copy of Hansard's reports of the discussions in Parliament on the Bills which became the Pharmacy Acts of 1868 and 1869. These reports are reprinted by permission of the proprietors:—

## House of Lords,

*Tuesday, May 19, 1868.*

SALE OF POISONS AND PHARMACY ACT AMENDMENT BILL: a Bill to regulate the sale of poisons and alter and amend the Pharmacy Act, 1852: was presented by the Earl Granville. Read first time without debate. It was read a second time without debate on May 28. On June 15, 1868, the Order of the Day for the House to be put into Committee read.

Earl Granville explained that the object of the Bill was to provide for the safety of the public by compelling all persons keeping shop for the sale of poisons, and all chemists and druggists, to undergo an examination before the Pharmaceutical Society of Great Britain as to their practical know-

ledge; and no person was to be permitted to keep a shop for the sale of poisonous drugs, or to call himself a "chemist and druggist," unless duly certified. The Bill proposed the further precautions of requiring that every box or bottle in which any poison was sold should be labelled with the name of the article, the word "poison," and the name and address of the seller. The Bill further proposed amendments on the 15 & 16 Vict., c. 56, known as the "Pharmacy Act." Moved—"That the Bill be now read a second time" (Earl Granville).

Lord Vaux of Harrowden expressed his general concurrence in the Bill, and his wish that its provisions might be extended to Ireland.

Earl Granville said, as far as he



was concerned, he should be only too happy to extend the operation of the Bill to Ireland on the suggestion of so high an authority.

The Duke of Marlborough said he would not question the discretion of his noble friend in extending the Bill to Ireland, but he should have thought that would not facilitate its progress in the other House.

The noble Duke proceeded to quote the report of the Medical Officer to the Privy Council, for 1866, to show the danger to life from the indiscriminate sale of poisons in village shops, and referred to the fatal case at Bradford, in which arsenic was sold by mistake for plaster of Paris, and used in the making of lozenges.

The Pharmaceutical Society was a voluntary one, and if there had been any other of the same character it would have been fair to consider its claim to be put upon an equal footing; but as this Society occupied the ground alone, having come forward in the public interest to promote examinations, it was desirable that it should have the advantage which the Bill would confer of conducting throughout the country such examinations of chemists as were necessary for the protection of the public. But it was necessary, as these examinations were to be made compulsory upon all persons undertaking the trade of chemists, and assuming that name, that the Government should have

some control over the mode in which the examination was to be conducted; and to carry out that view he had given notice of an amendment which was assented to by the noble Earl opposite. It proposed that the Privy Council should be the authority to see that these examinations were conducted in a proper manner, and also that the Society should have power to make regulations for the general sale of poisons, subject to the approval of the Privy Council. He concurred in the view that it would be better to look to these regulations as the means of effecting general security in point of detail than to attempt the embodiment of every minute provision in the strict terms of an Act of Parliament. He rather questioned whether the noble Earl (Granville) had included in the schedule of the Bill all the poisons which were sold and used to the destruction of human life. For instance, there was ample evidence that opium and its preparations were most extensively sold in several parts of England. It was not only largely used by men and women, but it was given to infants, and great destruction of life was the result. The reports on the subject were most distressing, and he should, therefore, have been glad to see opium added to the schedule. He did not know whether there was any special reason for omitting it; but in the absence of any such reason there was good ground for adding it if the



House thought fit to do so. With these qualifications he approved the measure as one calculated to be generally useful.

Lord Redesdale said he had given notice of a scheme which many noble lords and others were anxious to see introduced, and if any objection were taken to inserting it in Committee he would move it on the report. The Pharmaceutical Society had not proposed it because at first it might give a little trouble to adopt one form of bottle as a "poison-bottle"; but when once it became known that poisons were to be sold only in a particular form of bottle, which would be known as the "poison-bottle," and when it was made unlawful, not only to sell poisons in other bottles, but to sell things not poisonous in "poison-bottles," there would be far less risk than there was at present of persons being poisoned by mistake, as too many, unfortunately, were. Fatal mistakes were sometimes made in the dark, and these would be avoided by having a bottle of such a character that anyone who took hold of it would know it was the "poison-bottle."

The Marquis of Clanricarde feared that if the Bill were extended to Ireland it would require more amendment than the mere insertion of the name.

#### HOUSE IN COMMITTEE.

Amendments made: The Report thereof to be received to-morrow; and Bill to be printed as amended.

*June 16.*

Amendments reported (according to order).

Lord Redesdale moved to insert a new clause to Clause 17:—  
"From and after the 31st day of December, 1868, it shall not be lawful to sell any poison in a bottle unless such bottle be of an angular form, corrugated, and opaque, to be thenceforth known and described as a 'poison-bottle'; and it shall not be lawful to sell any preparation not poisonous in any such bottle; and any person offending against either of the aforesaid provisions shall be liable to the penalties hereinbefore enacted for selling poisons not distinctly labelled."

The Lord Chancellor doubted whether the noble Lord could have been fully aware of the consequences of proposing this clause—which, moreover, in its language was not reconcilable with some of the other clauses. The Bill, it should be remembered, referred to compounding as well as to selling, and did the noble Lord intend to render a chemist liable to the penalties of the Bill if he compounded a prescription which contained something poisonous, but did not supply it in a bottle of the shape suggested in this clause?

The Marquis of Salisbury also expressed a hope that his noble friend would not persist in his amendment, which treated the subject with a minuteness and detail which ought only to proceed



from an executive body, such as the Board of Trade.

After a few words from Lord Northbrook,

Lord Redesdale said that he must press the clause upon their lordships as he thought something ought to be done to protect the public with regard to the sale of poisons.

The Lord Chancellor suggested that the object of the noble Lord might be answered by the Pharmaceutical Society determining what the shape of the poison-bottle should be, that shape being approved by the Privy Council, and advertised in the *London Gazette*.

Earl Granville wished to know what were the views of Her Majesty's Government upon the question?

The Earl of Malmesbury: What upon the shape of the bottle?

Lord Redesdale said he would not divide the House now, but would move the clause upon the third reading of the Bill.

Motion (by leave of the House) withdrawn.

June 18.

Bill read third time (according to order).

Lord Redesdale moved the introduction of a clause to secure for the protection of the public the use of one uniform bottle for holding poison, to be called the "poisons - bottle." Its introduction might be gradual, but in course of time it would come to

be recognised by all. He had suggested on the report the adoption of a bottle of particular shape, but on reflection he had no objection to leave the matter to the decision of the Privy Council and the Pharmaceutical Society. He believed that there was no objection to the introduction of this clause, which he felt confident would tend in practice to the prevention of very serious danger. After clause 17 he moved to insert the following clause:—"From and after the 31st day of December, 1868, it shall not be lawful to sell any poison in a bottle required to be labelled as aforesaid, unless such bottle shall be of a shape and character to be thenceforth known as a poison-bottle; and it shall not be lawful to sell any preparation not poisonous in any such bottle; and any person offending against either of the aforesaid provisions shall be liable to the penalties hereinbefore enacted for selling poisons not distinctly labelled. The shape and character to be prescribed by the Pharmaceutical Society, with the consent of the Privy Council, within one month after the passing of this Act, and advertised and published in such manner as the Privy Council shall direct."

The Chairman of Committees (the Marquis of Salisbury) said the noble Lord had failed to answer the objection raised on a former occasion by the noble and learned Lord on the Woolsack that many of the poisons which



he proposed to put into these special bottles were poisons entering into the almost daily prescriptions of physicians.

Lord Redesdale said the noble Marquis was mistaken. The only poisons with regard to which his clause would enforce the use of a special bottle were those which by the previous clause were required to be labelled as poisons.

The Marquis of Salisbury said that one so well versed in the rules of the House as the noble Lord must see that there was great inconvenience in discussing a totally new provision, of which no notice whatever had been given. The distinction taken by the noble Lord, it would be seen on examination, was not well founded, for the earlier clause provided that no person should sell any poisons, wholesale or retail, unless in a wrapper distinctly labelled. A letter in the *Times* recently had given the names of some of the drugs in constant use, such as arsenic, prussic acid, strychnine, all poisonous vegetable alkaloids and their salts, aconite, corrosive sublimate, belladonna, and cantharides. Every one of these drugs entered into the prescriptions of physicians, and was used sometimes in cases of great emergency. A physician in some urgent case might send to a chemist in whose possession he knew the particular drug to be; and yet that chemist, merely from the fact that his stock of this particular poison-bottle hap-

pened to be exhausted, would be absolutely prevented from supplying the medicine. The bottle of course would be patented, being the invention of some particular person.

Lord Redesdale: It is not a patent to begin with.

The Marquis of Salisbury: Well, then, it was to be defined and published.

Lord Redesdale said he had already expressed his willingness to leave the shape of the bottle to be settled by the Privy Council and the Pharmaceutical Society.

The Marquis of Salisbury: But there was great inconvenience in introducing extensive additions of this kind upon the mere discussion of some particular clause of a Bill, and that, too, without notice. Apart from the practical objection that a particular medicine sent for in great haste in the middle of the night might fail to be procured in the absence of the poison-bottle, he objected to the whole principle of the proposed legislation of this point. Hitherto we had proceeded upon the principle of protecting persons from wrongs or injuries wilfully wrought by others, but we had never acted upon the principle of protecting sensible people from possible dangers merely because foolish people might have it in their power to injure themselves. Because somebody might be foolish enough to get up in the middle of the night and, without taking the trouble to strike a



light, might drink off the contents of a bottle, therefore the noble Lord proposed to introduce entirely new restraints affecting a whole profession. This was a principle of legislation not unknown to foreign countries, where Governments were very fond of protecting people against the consequences of their own acts; but it was totally opposed to the habits of this country, its direct tendency being to hinder the general business of mankind. The principle was one that, if adopted in this country, would tend, he felt sure, to greater evils than those which it sought to prevent.

Earl Granville thought the clause framed by the noble Lord might be modified with advantage before it was submitted to the House. On this subject he had received a letter from a gentleman of much practical experience, and read to the House the following extract:—

“I find that Lord Redesdale retains his faith in the poison-bottle, and intends to propose it again on the third reading of the Pharmacy Bill, adopting that which I certainly believe to be by far the most distinctive bottle ever used. But the more I consider his Lordship's proposition, and the more I think of the value pertaining to special bottles of any shape when used according to the discretion of dispensers who understand their business, the more impressed I become with the impolicy of specific enactments concerning them. I have already told your Lordship that most chemists in London use distinctive

bottles for dangerous articles and external applications; they have done so for the last six or seven years, the practice gradually increasing. I have also said that the use of these bottles should be restricted to such articles. Now, I presume the words ‘poison’ and ‘poisonous’ in the proposed clause must be construed according to clause 2. If so, we should be prohibited from using such bottles for every medicine not in the schedule; and I need scarcely say the schedule does not contain a sixth part of the dangerous preparations daily passing through our hands. I should not think now of selling laudanum in any other than a poison-bottle. Laudanum is not in the schedule, consequently I must, if the amendment pass, discontinue that precaution. I know Lord Redesdale thinks it is the inconvenience of the compulsory enactment which actuates the Pharmaceutical Society in resisting his proposal; but I can assure you most honestly that they are anxious, both by example and recommendation, to promote his views, and really apprehensive that his amendment would prevent their doing so.”

If the securities sought by the clause were not complete it would be worse than no precaution at all, and resemble that very dangerous gun invented some years ago, which was provided with a complicated contrivance to prevent its going off.

The Duke of Marlborough said that, although the clause had been greatly improved since last it was offered to the House, he thought the disadvantages connected with the proposal outbalanced the



advantages. The better course would be to leave it to the discretion of the Pharmaceutical Society and the Privy Council to take what precautions they thought necessary against the careless sale of poisons. If they thought it necessary to adopt a peculiar bottle they could do so, but such a course ought not to be imposed upon them by Act of Parliament. The proposal of his noble friend was defective, inasmuch as his schedule of poisons for which the bottles were to be used omitted mention of many substances more harmful than those it contained, and the result would be that poisonous liquids would be placed in ordinary bottles and comparatively harmless liquids in poison-bottles. He recommended his noble friend not to press the clause.

Lord Redesdale said it was difficult to know what to do, but the arguments offered against his proposal seemed by no means conclusive. Respecting the statements of the noble Marquis that it was contrary to English practice to make laws for the safety of those who were able to take care of themselves, he reminded the House that many instances of such legislation existed already; persons were every day being punished for stepping from a train in motion, and it was held to be no excuse that they could do so without danger. He thought it would be better to insert the clause, that it

might be fairly discussed in the House of Commons.

The Earl of Kimberley said chemists were of opinion that security would not be gained by insisting on the use of any particular bottle. Even if it were adopted there would be no security against mistaking medicines intended for outward application for medicines to be taken internally. An eminent chemist from whom he had received a letter suggested that a case might arise in which diluted prussic acid would be dispensed for internal doses of a spoonful each in company with a highly poisonous lotion of belladonna. Both would be dispensed in poison-bottles, and no security would be had that the lotion would not be taken for the diluted acid. His correspondent hoped their Lordships would not adopt the clause unless they wished to be killed by Act of Parliament.

After a few words from the Earl of Airlie and Lord Stanley of Alderley on the question, their Lordships divided: Contents, 39; not-contents, 45; majority, 6.

On question, "That the Bill do pass,"

The Marquis of Clanricarde was understood to express a hope that the provisions of the Bill would eventually be extended to Ireland.

Bill passed and sent to the Commons.



## House of Commons,

*June 22, 1868.*

THE SALE OF POISONS AND PHARMACY ACT AMENDMENT BILL was read a first time without debate.

*June 29.*

The Bill was read a second time without debate.

On July 10 progress was reported, and on

*July 15*

The order for Committee was read.

Bill considered in Committee.

### IN THE COMMITTEE

Clauses 1 to 3 agreed to.

Clauses 4 and 5 omitted.

Clauses 6 to 15 inclusive agreed to.

Clause 16 (reserving rights of certain persons).

Mr. Lowe moved, in line 6, after the word "dealing" to leave out "nor with the retailing of arsenic, oxalic acid, cyanide of potassium, or corrosive sublimate for use in manufactures."

Lord Robert Montagu said the Pharmaceutical Society did not wish to retain the words, and that they were not originally in the Bill.

Lord Elcho said that he objected to the omission of those words which would unnecessarily limit the retail of common articles of household use. The clause which he proposed to substitute for the 17th clause in the Bill would,

in the way of regulation, give as much security as could reasonably be expected against the careless sale or wrong use of ordinary poisons.

Lord Robert Montagu said he only desired that poisons should be bought, sold, or kept in bottles or wrappers properly labelled, so that, if possible, no mistakes should occur in their use.

Question put, "That the words proposed to be left out stand part of the clause."

The Committee divided: Ayes, 30; noes, 57; majority, 27.

Lord Robert Montagu said he would beg leave to move at the end of the clause to add—

"Provided always that registration under this Act shall not entitle any person so registered to practise medicine or surgery or any branch of medicine or surgery."

Proviso agreed to.

Clause as amended ordered to stand part of the Bill.

Clause 17 (poisons to be distinctly labelled).

Lord Elcho proposed that this clause should be struck out.

Mr. Lowe proposed that the clause should be amended. There were two amendments, in fact, before the Committee. The noble Lord proposed to substitute a new clause, and he (Mr. Lowe) would amend the present clause. The Committee would have to decide which was the preferable alternative. He admitted that the clause proposed by the noble Lord was a



considerable improvement on the present state of things; but there were a good many objections to it. The noble Lord proposed that poisons should be divided into two classes, but both were to remain in one schedule, and to be distinguished only by asterisks. Now, that was a most inconvenient way of dealing with the subject. The noble Lord proposed:—

“It shall be unlawful to sell any poison whatsoever to a person unknown to the seller, unless he gives evidence that he requires it for a legitimate purpose, and is aware of the uses, danger, and proper dose as the case may be, of such poison.”

What chance was there that these requirements, if of any value, would be complied with by the little shopkeepers throughout the country? How was the “evidence” that the person “required it for a legitimate purpose” to be given? He might want it “for a legitimate purpose,” but he was not to have it unless he was well read up in public and forensic medicine. And then, who were to be the judges of all this? Perhaps some old woman. This seemed to him a very inadequate way of dealing with the subject. What he proposed was this: they already had the precedent of the Arsenic Act, which, although it dealt with only one poison, was a most salutary Act, and it seemed to him that the proper course would be to place all ordinary poisons under the same restriction. With this

view, he begged to move, in line 18, before “it,” to insert

“of poisons which are not articles in the British Pharmacopœia none shall be sold except under such conditions as are prescribed in regard of arsenic by secs. 1 & 2 of the Act 14 & 15 Vict., c. 13, intituled ‘An Act to regulate the Sale of Arsenic,’ which sections for this purpose shall be read as if the word ‘poison’ were throughout substituted in them for the word ‘arsenic’; and of poisons which are articles in the said Pharmacopœia none shall be sold otherwise than under the same conditions as aforesaid, or else under the written order of a legally-qualified medical practitioner, unless it be prepared as an ointment or liniment, or otherwise for external use, or if for internal use be in quantity not exceeding one ordinary medicinal dose of the article.”

And in line 22, after “any” leave out “seller of any poison not so distinctly labelled,” and insert “persons selling poison otherwise as herein provided.”

Lord Elcho observed that the inconvenience of “asterisks” might be got rid of by having two schedules. His right hon. friend had admitted that the clause which he proposed to bring up was an improvement on the Bill as originally drawn. The clause embraced all the regulations which the Pharmaceutical Society—a body of gentlemen in daily practice, and to whom the public were under great obligations—considered requisite, establishing as it did the proper medium between drawing the law



so tightly that it must break in their hands and that laxity which would be prejudicial to the whole community. He was informed that the Arsenic Act was too stringent, and was practically a dead letter. He objected to the proposed amendment.

Lord Robert Montagu said he wished to know how a seller of poison was to ascertain the truth of a customer's assertion that he required the poison for destroying rats. He should support the amendment.

Mr. M. Chambers said the clause would compel the homœopathist to put the word "poison" upon all his bottles.

Mr. Lowe said the answer to the hon. and learned member's observation was that a whole bottle of homœopathic medicine would not amount to a dangerous dose. The difference between his clause and that of his noble friend was that by his clause the buyer of poison must be introduced to the seller, whereas by his noble friend's clause the buyer might be a person unknown to the seller.

Lord Elcho said that his clause required that the buyer should satisfy the seller that he required the poison for a legitimate purpose.

Mr. Lowe said that would leave the decision to the conscience of the seller, who had an interest in selling.

Amendment negatived.

Clause as amended agreed to.

Clause 18 struck out.

Remaining clauses agreed to.

Lord Elcho moved, in place of clause 4, which had been omitted, to insert a new clause:—

"Any person who at the time of the passing of this Act shall be of full age, and shall produce to the Registrar on or before December 31, 1870, certificates according to Schedule (E.) to this Act that he had been actually engaged and employed in the dispensing and compounding of prescriptions as an assistant to a pharmaceutical chemist, or to a chemist and druggist, as defined by clause 3 of this Act, shall, on passing such a modified examination as the Council of the Pharmaceutical Society, with the consent of the Privy Council, may declare to be sufficient evidence of his skill and competency to conduct the business of a chemist and druggist, be registered as a chemist and druggist under this Act."

Mr. Lowe said he would submit that, the principle of the Bill being to require education on the part of those who sell poisons, the clause was wholly indefensible in making the distinction of a modified examination. It is urged that these persons have a vested interest. A vested interest in what? A vested interest in ignorance—in not knowing enough to pass the examination usually required.

Lord Elcho said he thought it would be very hard upon those now dispensing medicines if they had to pass the same examination as apprentices entering the business. A modified examina-



tion in their case would give the requisite protection to the public.

Mr. Thomas Cave called attention to the fact that many of the present assistants had been in business and had failed, and others were married. It would be very hard upon them to insist upon their passing a stringent examination.

Clause read a second time.

Mr. Thomas Cave suggested the insertion in the fourth line of the words "for not less than four years."

Lord Elcho said he was willing to modify his clause to the extent suggested by the hon. member—namely, that the assistants must have been actually engaged in dispensing medicine for four years.

Lord Robert Montagu said he assented to the clause on the understanding that the assistants affected by it should have been engaged in the dispensing of medicine for four years, and should be registered assistants under the Pharmacy Act.

Mr. Alderman Lusk said he would suggest that the term be reduced to three years.

Lord Elcho said he was willing to adopt the suggestion of the hon. member for Finsbury, and to reduce the period of service required to three years.

Clause as amended agreed to.

Mr. Lowe proposed in place of clause 5 to insert a new clause (registration of chemists and druggists) by which chemists and druggists

should be entitled to be registered under the Act without paying any fee.

Clause agreed to.

Lord Elcho proposed a clause in lieu of clause 17, rendering it unlawful to sell certain poisons marked with an asterisk in schedule (A.) to persons unknown to the seller, laying down certain regulations respecting the registration of the sale, and imposing penalties for breaches of such regulations.

Mr. Lowe said he objected to making distinctions between poisons which a man might sell and poisons which he might not sell to unknown persons. He contended that those poisons referred to in the schedule as poisons which ought not to be sold to persons unknown to the seller were really not more used for criminal purposes than other poisons. The asterisk would apply to arsenic, prussic acid, cyanide of potassium, strychnine, and corrosive sublimate; but oxalic acid, chloroform, aconite, belladonna, essential oil of almonds, and such things, do not fall within the provision.

Lord Elcho said that the reason why was that these latter were used in the common purposes of life. He would suggest that the schedule should be divided into two parts—one containing poisons in common use for ordinary purposes, and the other those of a more subtle character and generally selected for criminal purposes.



Mr. Lowe submitted that the distinction utterly failed.

The distinction between the poisons in the schedule was omitted from the clause, and

Mr. Lowe then moved that poisons should not be sold to persons unknown unless such persons were introduced by a person known to the seller.

Mr. Serjeant Gaselee thought that such a provision would lead to a system of touting.

Amendment agreed to.

Mr. Bruce moved that in the case of the sale of poisons the name and residence of the introducer of a purchaser should be entered in the book of the seller.

Lord Robert Montagu proposed an amendment, to the effect that no poison should be sold unless a purchaser could satisfy the vendor that he really required it for medicinal purposes.

Mr. Lowe pointed out that the Committee had already agreed that no poisons should be sold to persons unknown. To pass this amendment would render legal the sale of poisons to anyone.

Lord Robert Montagu asked in what position a person would be if, in a strange place where he was unknown, he required to purchase a poisonous drug? Suppose, for instance, he was in Birmingham, and wanted to purchase a dose of laudanum to cure the toothache, how was he to get it?

Mr. Serjeant Gaselee said the chemist might think the noble Lord wanted to destroy himself.

Amendment negatived.

Clause as amended agreed to.

New clauses added.

House resumed.

Bill reported as amended, to be considered upon Friday, and to be printed.

Upon July 17 and 20 the Bill was considered, and upon July 21 it was read a third time; without debate upon each occasion. Upon July 31 it received the Royal assent as 31 & 32 Vict. c. 121.

## House of Commons,

*March 4, 1869.*

PHARMACY ACT, 1868, AMENDMENT BILL.—Resolution—First Reading—Act read—Considered in Committee.

### IN THE COMMITTEE.

Lord Robert Montagu, in moving that the chairman be directed to move the House that leave be given to bring in a Bill to amend the "Pharmacy Act, 1868," said the Bill consisted of only one clause. In England medical practitioners, who were generally licensed apothecaries also, and veterinary surgeons, were able to take medicines with them and to dispense them, but in Scotland neither of those classes of professional men were able to dispense medicines; for there was no licensing power in Scotland for apothecaries, and many veterinary surgeons were licensed by the Highland Society, but were not veterinaries of Great Britain. It



was a matter of serious consequence that this state of things should be altered, for it might happen that a doctor might be attending a patient in the Highlands some twenty miles away from the nearest druggist's shop. This Bill was to make the necessary change in the Act of last year.

An Hon. Member hoped the noble Lord would extend the wording of the Bill so as to include the case of Scotch practitioners practising in England.

Mr. W. E. Forster, on the other hand, thought that the Bill had better remain as drafted.

Mr. Brewer said he feared that the action of the Bill would be of a retrograde character.

Resolved, "That the chairman be directed to move the House that leave be given to bring in a Bill to amend the Pharmacy Act, 1868."

Resolution reported. — Bill ordered to be brought in by Lord Robert Montagu and Sir Graham Montgomery.

Bill presented and read the first time.

*April 12, 1869.*

Pharmacy Act, 1868, Amendment Bill was read a second time, without debate.

*April 29, 1869.*

Pharmacy Act, 1868, Amendment Bill.—Committee.

Order for Committee read.

Motion made and Question proposed, "That Mr. Speaker do now leave the Chair."

Dr. Brewer said he had an

amendment on the paper that the Bill should be committed that day six months. The Bill would not secure the purposes it contemplated, and would raise objections of a more serious character than those at present entertained on the subject. The word "poison" was used in the Act of last year, which this Bill proposed to amend, in a way that would lead to great inconvenience; and it was of the utmost importance that the wide application of the word in that Act should not be permitted to remain law. The word as used would include paregoric lozenges and other preparations which were of a comparatively harmless character. It was highly objectionable that such substances, when sold, should be labelled "Poison"; and in many cases medicines so inscribed would have a very injurious effect upon patients, simply from the patient being aware that the medicine was so described.

Amendment proposed, to leave out from the word "that" to the end of the question, in order to add the words, "this House will, upon this day six months, resolve itself into the said Committee" (Dr. Brewer).

Instead thereof, question proposed: "That the words proposed to be left out stand part of the question."

Mr. Newdegate said that the Bill was not to extend to veterinary surgeons, and a great deal of confusion would arise in consequence



of it, especially in Scotland, because anybody—a mere farrier, for instance—who called himself a veterinary surgeon would come within the provision.

Dr. Brewer said he could not resist anything the Government determined on, and would therefore withdraw his amendment.

Amendment by leave withdrawn.

Main Question, "that Mr. Speaker do now leave the Chair," put and agreed to.

#### BILL CONSIDERED IN COMMITTEE.

Lord Robert Montagu expressed his willingness to accept the amendments which had been put upon the table by the Lord Advocate.

Dr. Brewer trusted that they would now report progress.

Mr. Pochin said he was sure that those who knew anything of the matter would feel that neither the Bill nor the amendment met the difficulties of the case. The provisions of the present Act were grossly disregarded, and if it was to be amended it must be by some more radical amendments than any he had seen proposed. He moved that the Committee report progress.

The Lord Advocate said this Bill was to amend a mistake in the Act of last year. When the Act came down from the House of Lords last year it contained a clause that nothing in it was to interfere with the practice of legally qualified apothecaries. The present Act

was to remedy an error which would otherwise be serious.

Mr. Newdegate urged that if the Royal Highland Society received power to grant certificates, the Royal Veterinary Society of Camden Town ought to receive similar powers.

Mr. Whalley supported the motion to report progress on the ground that the legislation of last year upon this subject had caused the deaths of many persons. The question before the Committee was evidently one of life and death, and if it came to a vote he should be quite at a loss to know whether he would be voting for the life or death of a person.

Mr. M'Lagan explained that it was only after a most careful and searching examination the Highland Society granted certificates to veterinary surgeons.

Motion negatived.

House resumed.

Bill reported as amended, to be considered upon Monday, May 10, and to be printed.

*Monday, May 10.*

PHARMACY ACT, 1868, AMENDMENT BILL considered as amended.

*May 13.*

PHARMACY ACT, 1868, AMENDMENT BILL read a third time and passed the Commons.

### House of Lords,

*Monday, May 31, 1869.*

THE PHARMACY ACT, 1868, AMENDMENT BILL was read a first time without debate.



*Tuesday, July 27.*

THE PHARMACY ACT, 1868, AMENDMENT BILL was read a second time without debate.

*Thursday, July 29.*

THE PHARMACY ACT, 1868, AMENDMENT BILL passed through Committee without debate.

*Friday, July 30.*

THE PHARMACY ACT, 1868, AMENDMENT BILL passed the report stage without debate.

*Monday, August 2, 1869.*

THE PHARMACY ACT, 1868, AMENDMENT BILL was read a third time without debate, and passed the Lords.

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## House of Commons,

*Thursday, August 5, 1869.*

PHARMACY ACT, 1868, AMENDMENT BILL.—Lords' amendments considered. Several agreed to, and one disagreed to.

Committee appointed to "draw up reasons to be assigned to the Lords for disagreeing to the amendment to which this House hath disagreed":—Mr. Secretary Bruce, the Lord Advocate, Mr. William Edward Forster, Mr. Ayrton, Mr. Adam, and Dr. Brewer. To withdraw immediately. Three to be the quorum.

Reasons for disagreeing to one of the Lords' amendments reported and agreed to.

To be communicated to the Lords.

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## House of Lords,

*Monday, August 9, 1869.*

THE PHARMACY ACT, 1868, AMENDMENT BILL as returned from the Commons, with their reasons for not agreeing to an amendment considered. Amendment not insisted on, and the Bill received the Royal assent (32 & 33 Vict., c. 117) on August 11, 1869.



## COMPANIES AND THE PHARMACY ACT.

THE appended reports of the important case of

THE PHARMACEUTICAL SOCIETY OF GREAT BRITAIN *v.* THE  
LONDON AND PROVINCIAL SUPPLY ASSOCIATION (LIMITED)

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## QUEEN'S BENCH DIVISION.

*March 15 and April 5, 1879.*

(Before COCKBURN, C.J., and  
MELLOR, J.)

[Reported by A. H. Poyser, Esq.,  
Barrister-at-law.]

This was an appeal by the plaintiffs from a decision of the Judge of the Bloomsbury County Court in favour of the defendants in an action for a penalty under the 31 & 32 Vict. c. 121.

The facts are set out in the judgment of Cockburn, C.J., below.

The *Attorney-General* (Sir J. Holker, Q.C.) (*Lumley Smith* with him) for the plaintiffs.—Prior to 1868 any person might keep a chemist's shop and sell poisons, but by the Pharmacy Act restrictions are imposed on the sale of poisons. It requires that there should be some responsible person

to fall back upon in case anything goes wrong. It is not intended that an unqualified person should conduct a business with a duly-qualified assistant. The proprietor himself must be qualified. The word "person" in sections 1 and 15 of the Act is wide enough to and does include a corporation:—

Coke's 2 Inst. 732;

Maxwell on Statutes, 292.

An offence may be committed by a corporation (7 & 8 Geo. 4, c. 28, s. 14), and it may be proceeded against:—

*Terry v. The Brighton Aquarium Company*, 32 L. T. Rep. 458; L. Rep. 10 Q. B. 306;

*Reg. v. Birmingham and Gloucester Railway Company*, 3 Q. B. 223;

*Reg. v. Great Northern of England Railway Company*, 7 L. T. Rep. O. S. 468; 9 Q. B. 315;



*Green v. The General Omnibus Company*, 1 L. T. Rep. 95; 29 L. J. N. S. 13, C. P.

It was the intention of the Legislature that every person should be prevented from keeping an open shop for the sale of poisons unless such person be a duly-qualified chemist, but that intention could not possibly be carried out if a corporation is allowed to escape the penalties imposed by the Act.

*A. Wills*, Q.C. (*Finlay* with him), for the defendants.—There are many passages in this Act where it cannot possibly be intended that the word "person" is to include a corporation. The word person does not naturally include a corporation at law. This may be a *casus omissus*. If the contention of the Attorney-General is correct, a corporation can never carry on the business of a chemist. That might apply to Apothecaries' Hall, but that surely was not the intention of the Legislature. 7 & 8 Geo. 4, s. 14, applies to certain defined cases. That is rather an argument to show that, except by legislative provision, a corporation is not included in the word person.

*Lumley Smith* in reply.

*Cur. adv. vult.*

April 25.—The following written judgments were delivered:—

COCKBURN, C.J.—This is an appeal from the decision of the Judge of the Bloomsbury County Court in favour of the defendants in an action for a penalty under

the 31 & 32 Vict. c. 121, for having sold poison and kept open shop for the sale of poisons in contravention of that Act. By the 1st section of the statute it is enacted that it shall be unlawful for any person to sell or keep open shop for retailing, dispensing, or compounding poisons, or to assume or use the title

"chemist and druggist, or chemist or druggist, or pharmacist, or dispensing chemist or druggist in any part of Great Britain, unless such person shall be a pharmaceutical chemist or a chemist and druggist within the meaning of this Act, and be registered under this Act."

And by the 15th section

"Any person who shall sell or keep an open shop for the retailing, dispensing, or compounding poisons, or who shall take, use, or exhibit the name or title of chemist and druggist, or chemist or druggist, not being a duly registered pharmaceutical chemist, or chemist or druggist, or who shall take, use, or exhibit the name or title of pharmaceutical chemist, or pharmacist, not being a pharmaceutical chemist, shall, for every such offence, be liable to pay a penalty or sum of 5*l.*, and the same may be sued for, recovered, and dealt with in the manner provided by the Pharmacy Act for the recovery of penalties under that Act."

By the Pharmacy Act, sec. 12, the penalty recoverable under that Act is to be recovered in England or Wales

"by plaint under the provision of any Act in force for the more



easy recovery of small debts and demands."

The defendants are a company registered under the Companies Acts, 1862 and 1867, as a limited company, with a nominal capital of 10,000*l.*, divided into 1,000 shares of 10*l.* each. Of these one William Mackness holds 560 shares fully paid up. Six persons (one of whom was Henry Edward Longmore) hold five shares, with 2*l.* 10*s.* paid on each share. Three persons hold one share each, with 2*l.* 10*s.* paid on each share. The remaining shares are unallotted. The defendants' company was registered on January 29, 1878, and was formed "to purchase or acquire the trade or business of a wholesale and retail grocer and general warehouseman," then carried on by William Mackness at 113 Tottenham Court Road. Mackness is the managing director of the company. He is not a duly registered pharmaceutical chemist or chemist and druggist within the meaning of the Pharmacy Act, 1868. Henry Edward Longmore is a pharmaceutical chemist or chemist and druggist within the meaning of the Act, but no other shareholder is so. The business of the company is carried on, as that of Mackness was before the company was formed, at 113 Tottenham Court Road, and includes, amongst other departments for the sale of various goods, a chemist's and druggist's shop or drug department, which is an open shop for the retailing,

dispensing, and compounding poisons within the meaning of the Pharmacy Act, 1868. Longmore, as has been stated, is, and at the time of the sale of the poisons in question was, a duly registered chemist and druggist within the Pharmacy Act, 1868, and the business of the said drug department was conducted by him with the aid of two qualified assistants. He, with the two assistants, attended regularly to the drug department and to nothing else. He and his assistants were the servants of the company, and were paid by salary or wages. Upon this state of facts the question presents itself whether the defendant company, as such, is amenable to the penal enactments of the statute. It was fully admitted on the argument, nor could it be contested, that if this had been an ordinary partnership, the individual partners, at all events such of them as were not qualified under the statute, would have incurred the penalties it imposes. The intention of the Legislature appears clearly to have been to prevent any shop or establishment existing for the sale of poisons except under the immediate superintendence and control of a duly qualified proprietor. It is not enough that the proprietor employs a qualified person to manage the business. The master must himself be duly qualified. Two parties could not combine to carry on the joint business of grocer and chemist,



though the one attending to the latter department of the business might be a qualified chemist. There would be nothing to insure in such a case that in the absence of the qualified partner the other might not take upon himself to act in his stead, and thus the security against fatal mistakes in the dispensation of medicines which the statute was intended to insure might be seriously compromised. The defendants are therefore within the scope of this legislation; the case comes within the evil against which the statute was intended to provide a remedy. But they are said not to be within the statute as being an incorporated company; the main ground on which this contention rests being that the Act in question, in its prohibitory as well as its penal clauses, uses the term "person," a term which it is contended cannot be properly applied to a corporate body. The objection thus founded on the use of the word "person" in the penal clauses of the Act would seem at first sight to present some difficulty, but, when the scope and purpose of this legislation are taken into account, the difficulty does not appear to be insuperable. Reliance was placed by the Attorney-General, in his argument in support of the appeal, on the enactment of the 14th section of the 7 & 8 Geo. 4, c. 28, that whenever any statute relating to any offence, whether punishable by indictment or summary conviction,

in describing the offender or the offence uses words importing the singular number or the masculine gender only, it shall be understood to include several matters as well as one matter, several persons as well as one person, males as well as females, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction. But that Act is expressly confined to proceedings on indictment or summary conviction, and therefore cannot apply here, where the proceeding is by civil action. It shows no doubt the disposition of the Legislature to include corporations under the general designation of person or individual in penal statutes. But the terms of the Act will not admit of its application to the present case. To solve the question we must therefore confine our attention to the statute itself on which this action is brought. That an incorporated company is within the mischief against which this legislation was directed is, I cannot help thinking, quite obvious. If a company, by reason of its being incorporated, is not within the provision of the Act and amenable to its penalties, and effect is to be given to the argument of Mr. Wills, it necessarily follows that such a company might openly carry on the business of chemists and druggists, and sell poison, without a single member of the company, even the



person employed to conduct this portion of their business, being qualified. The person actually selling the poisons might be amenable, and it was probably with the view to avoid this that in the present instance a qualified person was employed to manage this department of the defendants' business; but the company employing him would enjoy complete immunity. A person desiring to combine the business of a chemist and druggist with that of a grocer would have only to get one or two persons to join him, providing them with a share or two, as appears to have been done in the formation of this company, and so founding an incorporated company, to set the statute at defiance. It cannot be supposed that the Legislature can have contemplated a result so entirely at variance with the policy and purpose of the Act, or intended to place incorporated companies on a different footing in this respect from that of ordinary partnerships or individuals. It is no doubt possible that, although joint-stock companies existed at the time this statute was passed, the formation of such companies for the purpose of continuing trades hitherto carried on singly, and among other things for that of superadding the business of the chemist and druggist to that of the grocer or provision merchant, may not have been present to the minds of those who framed and passed the statute. Still, if the case, though

unforeseen, is within the mischief which the Legislature had in view, and the enactment is large enough to embrace it without any forced or strained construction being put on the language of the Act, it is our duty to advance the remedy intended to be afforded. It is true that the term used in the 1st section of the Act is a "person," and that ordinarily speaking this word would not be applicable to a corporation. But when the meaning and effect of the enactment are looked at without too close an adherence to its precise phraseology, it amounts to no less than a general prohibition to everyone not qualified according to the Act from dealing in poisons, or carrying on the business of a chemist and druggist. The fallacy of the argument urged on behalf of the defendants is that it assumes that the prohibition is addressed to individual persons. But the provision, being universal, must extend to all persons, whether acting in an individual or corporate capacity. The defendants, it is true, in thus infringing the law, are not acting in their individual capacity, and may not (but on this it is unnecessary to pronounce any opinion) be liable individually. But in their aggregate or corporate capacity they are breaking the law, and being in the latter capacity, as well as individually, within the prohibition, they must, if capable of being sued, be also amenable to the penalty, and must for this purpose be taken to be



persons within the meaning of the statute. The fact so strenuously insisted on by Mr. Wills, that in other sections of the Act the word "person" is applicable to individual persons only, and not to a corporate body, only tends to show that the adoption of the business of chemist and druggist by incorporated companies like the present was not contemplated when the Act was passed. It by no means shows that the prohibition being general, and the mischief clearly within the statute, the company, though as such they may be incapable of complying with some of its requirements—as, for instance, to undergo examination under sect. 6—ought not to be held to be within the penal clauses of the Act, or should be allowed openly to break the law under the belief that they are beyond its reach. In the present case it so happens that a member of the company, who manages the chemical department of its business (Mr. Henry Edward Longmore), is a qualified chemist. But it is not as a member of the company that he so acts, but as the paid servant of the company. It is clear, therefore, that his being qualified will not exonerate the other members of the company who are not so. Nor would it be otherwise, even if it were as a member of the company that he so acted. So long as any of the company are disqualified the body is disqualified, and the one who, though himself qualified, acts for the body becomes a party to

their offence, and becomes liable conjointly with them. The qualified chemist, who, in partnership with a grocer, carried on the business of grocer and chemist, would be as liable to the statutory penalty as his unqualified partner. The County Court Judge was therefore wrong in holding that because the chemical department of the defendants' business was managed by a qualified person the defendants were not liable to the penalty. Being thus of opinion that a company, though incorporated, is none the less within the prohibition of the statute, I come to the remaining question whether such a company is capable of being sued for the penalty provided by the 15th section. Upon this point the authorities referred to by the Attorney-General in his argument appear to me to afford a satisfactory answer, although it is true that a corporation cannot be indicted for treason or felony. It was established by the case of the *Birmingham and Gloucester Railway Company* (*ubi sup.*) that an incorporated company might be indicted for non-feasance in omitting to perform a duty imposed by statute, such as that of making arches to connect lands severed by the defendants' railway. It was further held in *Reg. v. The Great Northern of England Railway Company* (9 Q. B. 315), that an incorporated company could be indicted for misfeasance as in cutting through and obstructing a highway, though they could not



be indicted for treason or felony, or offences against the person. In the present instance we are dealing not with an indictment on information, but with an action in a civil court. Though the sum to be recovered is no doubt a penalty for the infraction of the statute, the means to be resorted to for its recovery are of a purely civil character. If a corporation can be indicted for misfeasance, I am wholly at a loss to see why it may not be proceeded against in a civil suit for the recovery of a penalty which it has incurred by disobedience to a statutory prohibition. I am therefore of opinion that this appeal must be allowed, the decision of the late Judge of the County Court reversed, and judgment entered for the plaintiffs.

MELLOR, J.—I have come with considerable hesitation to the conclusion that our judgment should be for the plaintiffs, and that both questions submitted to us must be answered in their favour. I was for some time inclined to think that the circumstances of the defendants' case were not within the contemplation of Parliament when the Pharmacy Act, 1868, was passed, and that, although clearly within the mischief intended to be provided against, words sufficiently comprehensive had not been used in framing the Act to include the acts of the defendants, and that consequently it became a *casus omissus*. A fuller consideration of the provisions of the Act 31 & 32 Vict. c. 121, has, however, brought

me to the same conclusion as that expressed by my Lord Chief Justice in his judgment in this case. I think the great object of the Legislature was to prevent the sale of poisonous or dangerous drugs by persons not qualified by skill or experience to deal in such commodities. It, therefore, proposed to form into one association all persons who for the future should alone be deemed qualified to deal in the same, and who should be registered under the provisions of the Act which we are now considering. It accordingly provided for the interests of all chemists and druggists who had been in business as such previously to the passing of the Act, but with regard to the future it made careful provision for the examination and registration of all persons who should in future form the only qualified body of persons who should be permitted to keep open shop for the retailing or compounding of poisons; and I now think that the sections are really, when carefully considered, only the provisions regulating the steps which in future are to be taken by all persons who desire to obtain the privilege of keeping open shop and retailing, dispensing, or compounding the poisonous drugs in question, and who, upon being registered as pharmaceutical chemists, or chemists and druggists within the provisions of the Act, will become qualified so to do. To incorporate such a society, and to give to its members



in future the sole privilege of keeping open shop as chemists, or chemists and druggists, for the sale or dispensing or compounding poisons, rendered it necessary to prohibit all other persons not so registered or qualified from keeping open shop, or retailing, dispensing, or compounding such drugs for sale, and from assuming the title of pharmaceutical chemist or chemist and druggist; and therefore whilst one set of sections are qualifying and intended to regulate for the future the mode in which persons should become qualified as members of the association, and to provide for the government of the body incorporated, sections 1 & 15 of the Act which contain the prohibitory words, upon the meaning of which we have to decide, have an entirely distinct effect. The object of those sections is absolutely to prevent the danger assumed to be likely to arise to the public by keeping open shop for the retailing, dispensing, or compounding poisons by any persons not being qualified pharmaceutical chemists or chemists and druggists, and the intention and scope of those sections, and the general object of the Act, is absolutely to exclude, from the time of the passing of the Act, all persons other than the registered members of the Pharmaceutical Society from keeping open shop or retailing, dispensing,

or compounding poisons. Now, before the passing of the Act, 1868, all persons, whether "natural persons" or "artificial persons" constituted by incorporation for trading purposes, might, either as individuals or as a corporation, have kept open shops and retailed, dispensed, or compounded poisons. It was essential, therefore, to the effectuating the objects of the Act, that all persons, whether natural or artificial, should for the future be prevented from dealing as before in the prohibited matters; and the cases cited by the Attorney-General in his argument show that an incorporated company may commit an offence either of non-feasance or misfeasance, and may be punished by indictment for the same as if the act had been done by a natural person. We may well, therefore, interpret the word "person" with sections 1 & 15 so as to include not only any natural person, but any artificial person created by the law, which would be capable of committing the offence referred to in the 15th section, and we are authorised upon the principle of decided cases to say not only that the "offence" has been committed by the defendants, but that they are liable to be punished for it under the provision of the 15th section.

*Judgment for plaintiffs.*



## COURT OF APPEAL.

*Feb. 23, 25, and March 16, 1880.*

(Before BRAMWELL, BAGGALLAY,  
and THESIGER, L.JJ.)

[Reported by P. B. Hutchins, Esq.,  
Barrister-at-law.]

*Feb. 23.*—*A. Wills, Q.C., and Finlay* for the defendants.—The defendants are not liable to a penalty, for they are not a "person" within the meaning of 31 & 32 Vict. c. 121. In the first place, although, no doubt, the word "person" may include a corporation, it does not do so in modern Acts of Parliament (especially those imposing penalties), unless it is so expressly enacted; and, secondly, this particular Act shows, by several passages contained in the Act itself, that the word "person" is not intended to include corporations. The 13 & 14 Vict. c. 21, which provides by sect. 4 that words importing the singular are to include the plural and the plural the singular, &c., contains no provision extending the meaning of the word "person." In *Guardians of St. Leonard's, Shore-ditch v. Franklin* (39 L. T. Rep. N. S. 122; L. Rep. 3 C. P. Div. 377) it was held that a corporation did not come within the words "person or persons" for the purpose of suing for a penalty, notwithstanding the provisions of 7 & 8 Geo. 4, c. 28, s. 14. Where "person" is intended to include corporation there is an express

provision to that effect. To take examples: in the year in which this Act was passed, 1868 (31 & 32 Vict.), there are four Acts containing such a provision: c. 45 (the Sea Fisheries Act), s. 5; c. 60 (the Curragh of Kildare Act), s. 2; c. 119 (the Regulation of Railways Act), s. 2; c. 130 (the Artisans' and Labourers' Dwellings Act), s. 3. Such a provision occurs in the Bankruptcy Act, 1869 (32 & 33 Vict. c. 71), s. 3; also in the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 3; and in the repealed Act of 1848 (11 & 12 Vict. c. 63), s. 2. Besides several earlier instances, there are two in 1876 (39 & 40 Vict.): c. 70 (the Sheriff's Courts (Scotland) Act), s. 3; c. 75 (the Rivers Pollution Prevention Act), s. 20. In 1877 (40 & 41 Vict.) one: c. 42 (the Fisheries (Oyster, &c.) Act), s. 13. In 1878 (41 & 42 Vict.) four: c. 16 (the Factory and Workshop Act), s. 96; c. 49 (the Weights and Measures Act), s. 70; c. 51 (the Roads and Bridges (Scotland) Act), s. 3; c. 52 (the Public Health (Ireland) Act), s. 2. There are also instances in the rules under the Judicature Acts, Order LXIII., and in the Factors Acts: 6 Geo. 4 c. 94, ss. 2, 3, 4, 5, 6, 7; 5 & 6 Vict. c. 39, s. 8. The person who actually sold was qualified, and therefore the defendants are not liable:

*Raynard v. Chase*, 1 Burrow, 1.

The Act itself (31 & 32 Vict. c. 121) shows that its framers had



not limited companies in their contemplation. It begins with a general recital "that it is expedient for the safety of the public that persons keeping open shop for the retailing, &c., of poisons, and persons known as chemists and druggists, should possess a competent practical knowledge of their business, and to that end that . . . all persons not already engaged in such business should before commencing such business be examined as to their practical knowledge, &c." Sects. 1, 3, 4, 5, and schedules C and D, relating to registration, and sect. 6, relating to examination, are altogether inapplicable to corporations; and so are sect. 11, relating to notice of death; sect. 16, giving certain rights to the executors of a deceased chemist; sect. 18, relating to the election of chemists as members of the Pharmaceutical Society; and sect. 20, relating to a benevolent fund. Sect. 17 shows that "sale" means sale over the counter only. If a statute says that no person shall do a certain act without complying with a condition which a corporation cannot comply with (such as passing an examination), that statute cannot be intended to apply to corporations. They also referred to

*Harrison's case*, 1 Leach C. C. 180;

*Walker v. Richardson*, 2 M. & W., at p. 889, per Alderson, B.

Feb. 25.—The Attorney-General (Sir John Holker, Q.C.) and *Lumley Smith* for the plaintiffs.—This case is within the mischief intended to be dealt with by the Act of Parliament, and the case turns on the construction of the Act itself, and not on clauses which occur in other statutes dealing with different matters. There is nothing in the Act to show that the word "person" in sect. 15 does not include a corporation, as it naturally would according to the rule laid down by Lord Coke, 2 Inst. 722, where he says: "These words (all and every person and persons) regularly doe extend to any body politick or corporate." As to the general liability of corporations for tort see

*Yarborough v. The Bank of England*, 16 East, 6;

*R. v. Great Northern of England Railway Company*, Q. B. 315;

*R. v. Birmingham and Gloucester Railway Company*, 3 Q. B. 223.

The decisions under the Attorneys Act as to unqualified partners are in conflict with *Raynard v. Chase* (*ubi sup.*); see

*Tench v. Roberts*, Mad. & Gel. 145, n.;

*Hopkinson v. Smith*, 1 Bing. 13.

*Wills*, Q.C., in reply.

*Cur. adv. vult.*

March 16.—The following judgments were delivered:—

BRAMWELL, L.J.—I am of



opinion that this appeal must be allowed. I think the word "person" in sect. 15 of the Pharmacy Act, 1868, does not include a corporation. That the word "person" may include a corporation I will not deny, though at the same time, considering the way in which statutes are now drawn, that when "corporation" is meant it is always named—at least, that there is no modern instance to the contrary that when the Legislature made a general interpretation clause that "person" should be male or female, plural and singular, &c., it did not include "corporation," I should be reluctant to hold that in any particular statute "person" included "corporation" unless there were strong reason so to do. In this case there is, in my opinion, no such reason, but the contrary. Sects. 1 and 15 of the Act create an offence and provide for its punishment. But for sect. 15, sect. 1 would create a misdemeanour punishable by indictment, fine, and imprisonment. But offences, certainly offences of commission, are the offences of individuals, not of corporations. A corporation cannot have the *mens rea*. I do not say a corporation cannot be guilty of an offence of nonfeasance; it certainly can be, and it has been so held as to a misfeasance; but though, if the Legislature pleased, it might enact that a corporation should in a certain event be taken to have committed an offence, the

presumption is that in speaking of offenders it speaks of individuals. If a statute were to say that any person publishing a libel should be guilty of an offence, or that no person should publish a libel, a corporate printing company publishing a libel would not be guilty in its corporate capacity, but the individuals publishing would be the offenders. So, for instance, as to the sale of beer or spirits. No doubt, if there were strong reason for saying "person" in this statute meant corporation, one ought so to hold. As, for example, if the mischief to be prevented could not be otherwise. But that is not so here; for the individual offender may be got at. If the servant or shopman of a corporation sells poison, not being a pharmaceutical chemist and registered under the Act, it will be no answer to an action for the penalty to say that he did it as servant, whether of an individual or a corporation not qualified. If the act is in itself unlawful, it is not the less so because done as servant. If it would be lawful because the servant was qualified though his employer was not, I think the statute is shown to be all the more reasonable, as in that case a corporation is on the same footing as a partnership, and there is no reason why it shall not be. It may be asked how is the "keeping open shop" to be reached; the servants do not keep it open. No; but the directors or managers do—they are the offenders in that case. I cannot



see how they could deny that they kept open that shop. They do, they do it in fact. If they committed a public nuisance by smells, vapours, or otherwise in the preparation or (if supposable) in the sale of their drugs, they, and not the corporation, would be indictable. I see no reason, then, for including corporation in the word "person." I see many the other way. It is remarkable that in this particular statute "person" never includes corporation in any other section. It is manifest that "persons" in the preamble keeping open shops, and "persons" known as chemists or druggists mean individuals, for they are "persons" who it is expedient should possess a competent practical knowledge of their business. A corporation as such cannot possess a competent practical knowledge. Then such "persons" are to be examined; it is manifest "persons" there does not include corporations; why should it in sect. 1? So "persons" in sect. 3, who have been assistants, cannot include corporations; nor the "person" in sect. 4, who is to be of full age; or the "persons" in sect. 5, who had been admitted pharmaceutical chemists, for no corporation had been; nor the "person" in sect. 6, for a corporation never could have a certificate of competent skill; nor the "person" in sect. 10, who is a person that may die. In short, "person" in no other section of this Act includes corporation. Further than

this, I am by no means certain that the statute is not levelled at the individual actually acting, and not (at least in all cases) his employer. Who would be liable under sect. 15 for compounding medicines of the British Pharmacopœia otherwise than according to its formularies? Surely the actual person compounding. Sect. 16 supposes there may be a qualified assistant and not a qualified master; again, sect. 17, which specially provides that for certain matters the master is liable, seems to suppose that otherwise he would not be. Then sect. 18 and the following, when they use the word "person" clearly do not mean "corporation." There is this advantage, as I have said, in this construction, that it does not exclude a corporation from the benefit of carrying on this business, nor the public from dealing with them. It is not needlessly in restraint of trade, as it otherwise would be, at least not directly. If it does indirectly operate to preclude a corporation carrying on the trade, however qualified all its members may be, it is to be regretted, but there is no need for making "person" include corporation, nor for creating the novelty of a corporate offence. It only would operate against a corporation as it would against a partnership. Further, how is this the act of the corporation if it is unlawful? For if it is, it is *ultra vires* of the directors. An assistant hired by them to sell those poisons, if so doing is un-



lawful, could maintain no action against the corporation. They would have a good defence. Of course, if by their articles of association poisons are expressly to be sold, then the sale would not be *ultra vires*; but that does not appear in this case, and, at all events, the possibility is a reason for fixing the individual and not the corporation. In the result, considering the way in which modern statutes are drawn, that corporations are specified where corporations are meant, that offences are wilful breaches of law or inattention to its commands, and so the act of the individual offending, that there is no reason for holding corporations to be within the Act, that there are reasons to the contrary, and that in no other section of this Act does "persons" mean corporation, I am of opinion it does not in these sections. I am aware that the penalty is recoverable by plaint in the county court (15 & 16 Vict. c. 56); but the sum recoverable is at the disposition of the Crown (sect. 14); and it is a penalty, and the act is an "offence" and the person an "offender." I am aware also that there is ground for saying that, under sect. 15, all of several partners keeping a shop must be qualified, though none attend, and the shopman need not be qualified. If so, it may be said, so must all the shareholders and directors of a corporation. I do not know. The Act may have a more limited meaning, and be more

reasonable. If not, still this furnishes no argument in favour of "person" meaning corporation. But, anyhow, this will effect the object of the statute; for if that is to impose the penalty on the person actually doing the prohibited act, unless himself qualified—*e.g.*, the shopman—this opinion will not affect his liability. If the intention is to impose the penalty on the person actually doing the prohibited act unless his master, or employer, or principal is qualified, this opinion will not affect that liability. If the statute—it can have no object except this—means to impose the penalty on him who commands the prohibited act to be done, unless he is qualified, this opinion will not affect his liability, and if the penalty attaches to several unless all are qualified, they will be liable, notwithstanding this opinion; while it will avoid this absurdity—that a corporation, though all its members, all its directors, and all its servants were qualified, could not lawfully sell nor acquire the power lawfully to sell the articles in question. The statute never meant to infringe the rules of free trade, nor to grant protection to chemists, but only to the public, and this is assured by this opinion.

BAGGALLAY, L.J.—I agree in the opinion that this appeal should be allowed. In modern times, where the Legislature had intended that the word "person," or any other word primarily importing an indi-



vidual, should in any particular statute include a corporation, it has been usual to introduce an interpretation clause declaring that the word shall have such extended meaning; and in the year 1868, the year in which the Act now under consideration was passed, at least four other Acts were passed into which such a clause was introduced—viz., the Sea Fisheries Act (31 & 32 Vict. c. 45), the Curragh of Kildare Act (c. 60), the Regulation of Railways Act (c. 119), and the Artisans' and Labourers' Dwellings Act (c. 130); and in another, the Fairs (Ireland) Act (c. 12), the word "owner" was declared to have the same meaning. Now, the omission from Lord Brougham's Act (13 & 14 Vict. c. 21) of any general declaration that the word "person" when used in subsequent statutes shall include a corporation, and the absence from the Act under consideration of any such interpretation clause, to my mind strongly supports the view that the Legislature had no intention that the word "person" when used in the Act should include a corporation. It probably is the fact, as was suggested in argument, that at the time when the Act passed it was not in the contemplation of the Legislature that a corporate body would interfere in the business of selling or of dispensing or compounding poisons, and that, consequently, it had no intention of either including or excluding a corporation when

using the word "person." But however this may be, it must, I think, be admitted that, although an Act may not contain a declaration that the word "person" shall include a corporation, and although it may be clear that the Legislature could not reasonably be presumed to have had any intention in the matter, yet if it should be clear, from the general scope and purport of the Act, that the selling, dispensing, or compounding of poisons by a corporation would or might be within the mischief intended to be guarded against, and if the extending the meaning of the word "person" so as to include a corporation would enable the necessary protection to be given, such an interpretation may and ought to be adopted. But when I turn to the Act itself I can find nothing to lead me to such a conclusion. The object of the Act is to prevent the selling, dispensing, or compounding of poisons by unqualified persons. A corporation cannot of itself sell, dispense, or compound; it can only do so by the aid of a servant or assistant; and if that servant or assistant is duly qualified in the manner required by the Act, as is admittedly the case as regards the dispensers employed by the defendants, the object of the Act is attained. And in the view which I take of the Act, the protection intended to be given to the public is sufficiently secured in the case of a corporation keeping an open shop for the sale, dispensing, and



compounding of poisons; for, in my opinion, the seller referred to in sect. 1 is the actual seller, and not the individual or corporation on whose behalf he may act; and this view is supported by the language of sect. 17, which when dealing, not with the simple selling of poisons, but with selling particular poisons without the adoption of special precautions, imposes a comparatively small penalty on the seller, but declares that *for the purpose of that section* the person on whose behalf the sale is made shall be deemed to be the seller, thus implying that, except for the purposes of that section, the person referred to in the Act as selling means the person actually selling, and not the person by whom he is employed. I need not refer to the many sections of the Act which are quite inapplicable to the case of a corporation, as they have been pointed out in detail by Bramwell, L.J. In the absence, then, of any declaration in the Act that the word "person" is to include a corporation, and not gathering from the general scope and purport of the Act that there is any necessity in the interest of the public that any such interpretation shall be given to the word, I have arrived at the conclusion that such an interpretation ought not to be put upon it, and that this appeal must be allowed.

THESIGER, L.J.—I also am of opinion, not without doubt, that the appeal should be allowed.

The question for determination is whether an incorporated company is subject to the prohibition contained in sect. 1, and liable to pay the penalty imposed in sect. 15, of the Pharmacy Act, 1868, or, in other words, whether the term "person" used in those sections includes such a company. In dealing with this question, I start with the axiom that the term "person" is, in legal phraseology, wide enough to include, not merely natural persons—*i.e.*, individuals—but artificial persons, such as corporations, aggregate, as well as sole. I start at the same time with the undisputed fact that the practice in modern statutes where corporations are intended to be affected is either to expressly name them or to use in reference to them the term "person" with an interpretation clause expressly providing that corporations are intended to be included in the term. As a proper result of the opposition between the axiom and the practice, it appears to me that the term "person" when contained in a modern Act of Parliament should never be construed to include corporations, except where first the term is expressly interpreted as including them, or, secondly, the context of the Act clearly shows that they are so included, or, thirdly, the object and scope of the Act peremptorily require them to be so included and the context does not clearly negative a construction to that effect. Neither the first nor the second



condition exists in the particular Act under consideration ; but for a long time I have doubted whether the judgment of the Court below might not be supported on the third. The object of the Act is that of providing for the safety of the public in the matter of the sale of poisons. The means by which that object is proposed to be attained is *inter alia* that of subjecting those who keep open shop for the retailing, dispensing, or compounding of poisons to certain conditions and restrictions. Corporations may keep open shop ; their doing so without proper safeguards may expose the public to the mischief against which the Act is intended to guard. There is, therefore, a strong presumption *à priori* that they would be made subject to the same conditions and restrictions as those to which individuals would be subjected, or at least to some conditions and restrictions that would serve to the same end. Proceeding a step further, it may be said that a statutory provision under which a particular thing is made unlawful for any individual to do, except under certain conditions, contains an indication that the thing itself is intended to be entirely prohibited except under those conditions, and, consequently, cannot be done by a corporation, even though the conditions are in their nature such as cannot, under any circumstances, be complied with by them. Lastly, a penalty by which the prohibition is to be

enforced, recoverable by civil suit, is as applicable to corporations, who may even, under certain circumstances, be the subject of indictment, as it is to individuals. Notwithstanding, however, the force of these considerations, which still press themselves upon me, I have come to the conclusion that the whole context of the Act too clearly points to individuals alone being intended by the term "person" to allow of that term being held to include corporations in the 1st and 15th sections. I do not propose to repeat what Bramwell, L.J., has already said on this point. He has shown conclusively that the preamble and every section of the Act, putting aside for the moment the two sections the meaning of which is in dispute, when using the term "person" or "persons" refer to individuals alone. But, in addition to what he has pointed out, I find in the 1st section itself evidence that the words "any person" in the earlier part of that section are limited to individuals, and cannot be extended to corporations, for in a subsequent part of the same section the word "person" is again used with such a context as absolutely forbids its application to a corporation, and yet in such a relation to the same word contained in the earlier part of the section as to grammatically require that it should receive the same construction. I do not think that, under such circumstances, the Court ought to strai-



the language of the Act so as to make it include corporations, even if it were clear that the mischief intended to be provided against would otherwise, in the case of companies keeping open shop for the sale of poisons, be remediless. But I feel bound to add that I am by no means satisfied that, although a corporation as a separate entity be not liable to the penalty which is sought to be recovered in this case, the individual members of the corporation, whether directors of a company or otherwise, may not be liable, and thus the mischief be remedied. I prefer, however, to give no definite opinion upon this point, for it involves the question whether the Legislature intended or not to practically put an absolute veto upon the keeping open shop for the sale of drugs by trading companies, and the absence from the Act of any express reference to such companies is almost equally difficult to be accounted for upon the notion that the Legislature had that intention, as upon the notion that the Legislature did not think of the matter at all, and thereby a *casus omissus* had occurred.

*Judgment reversed.*

#### HOUSE OF LORDS.

*July 20 and 22, 1880.*

(Before the LORD CHANCELLOR (Selborne), Lords BLACKBURN and WATSON.)

[Reported by C. E. Malden, Esq.,  
Barriſter-at-law.]

*Benjamin, Q.C., and Lumley*

*Smith, Q.C., for the appellants,* contended that the question was whether the Pharmacy Act applied to corporations. Our contention is that the corporation "keeps open a shop" for the sale of poisons, and, as it cannot comply with the provisions of the Act, it is liable for so doing. The purpose of the Act is to keep unqualified persons from opening a shop at all, and at common law a corporation is a "person." Nothing is said about qualified assistants in the section, and, if the contention of the respondents is right, a corporation could keep open a shop without employing any qualified assistant at all. They cited

2 Inst. 720;

*Corporation of Newcastle v. Attorney-General*, 12 Cl. & F. 402;

*Mayor of Hereford v. Martin*, 15 L. T. Rep. N. S. 187;

*Terry v. Brighton Aquarium Company*, L. Rep. 10 Q. B. 306; 32 L. T. Rep. N. S. 458;

*Reg. v. Birmingham and Gloucester Railway Company*, 3 Q. B. 223;

*Reg. v. Great Northern Railway Company*, 9 Q. B. 315;

*Boyd v. The Croydon Railway Company*, 4 Bing. N. C. 669;

*Cortis v. Kent Waterworks Company*, 7 B. & C. 314;

*St. Leonard's, Shoreditch, v. Franklin*, 3 C. P. Div. 377; 39 L. T. Rep. N. S. 122.

*A. Wills, Q.C., and Finlay, for the respondents,* maintained that the word "person" must be taken



in its ordinary and natural sense. The intention of the Act was to provide for public security, not to give a monopoly to qualified persons, nor to put a stop to corporate enterprise by a side wind. By sect. 16 of the Act, an unqualified person who is executor may carry on the business by a duly qualified assistant. If a "person" is prohibited by statute from doing any act except under conditions with which it is only possible for a natural person to comply, it must be taken only to include natural persons, unless the contrary appears from the context. This Act was passed to amend the 15 & 16 Vict. c 56, which dealt with natural persons only, and therefore the amending Act must be taken to do the same. They referred to

*Harrison's case*, 1 Leach C. C. 180; 2 East Pleas of Crown, 988;

*Reynard v. Chase*, 1 Burr. 2.

*Benjamin*, Q.C., was heard in reply.

At the conclusion of the arguments, their Lordships gave judgment as follows:—

THE LORD CHANCELLOR (Selborne).—My Lords: I cannot say the case is free from difficulty, especially as two Courts of high authority have differed in the view they take of the statute. The question really comes to the construction of sects. 1 and 15 of the Pharmacy Act, 1868, having regard to the general principles upon

which ambiguous words such as "person" ought to be construed. There can be no doubt that the word "person" in public statutes *primâ facie* includes corporations as well as natural persons; but it should never be forgotten that in its popular and ordinary sense it is never extended so far. Therefore, in statutes, as in other documents, unless there is any reason for a contrary construction, the language should be construed according to its popular use. We frequently find in statutes a declaration that the word "person" shall extend to corporations and other societies, as in the Act relating to apothecaries; but, if a statute provides that a person shall not do a particular act except on condition of complying with certain regulations, *primâ facie* the natural and usual construction, unless there is something to the contrary in the context, in the manifest object of the statute, or in the subject-matter, is that the person the Legislature contemplated is a person who is capable of doing the act spoken of. If that is a sound rule it applies to the present case. The 1st section says it shall be unlawful for any person, unless he is a pharmaceutical chemist under the Act and registered under it, to do certain things. What class of persons is meant? It is clear that a corporation cannot be intended. A corporation cannot be a pharmaceutical chemist within the meaning of the Act, or be regis-



tered under it. I accordingly arrive at the conclusion that the word means individuals, and is inapplicable to a corporation. Exactly the same observations may be made upon the 15th section. As to the argument of the appellants that the object of the Act would be defeated unless a corporation as well as an individual is included, I do not think that argument can be successfully maintained. A corporation cannot be properly qualified. The Act to be effectual must strike at the particular acts of those who really conduct the sales and compound the medicines, whether master or servant, and the 15th section clearly does so. It is said that, if we exclude corporations, mischief will be done to the public. As I have said, I do not regard the matter as free from doubt, but the liberty of the subject should not be more restrained than the words of a statute require. Before the Act passed it was open to all Her Majesty's subjects to carry on the business of a chemist and druggist, and, for that purpose, to keep an open shop for the sale, among other articles, of poisons, and, as it was perfectly lawful to do that by means of a company incorporated under the Companies Act, as there is nothing whatever to show that the Legislature had grounds for assuming there could be no such companies, and, moreover, as the Apothecaries' Company, incorporated in the reign of James I. as a company for the

sale of drugs, has carried on its business down to the present time, I think it would be wrong on the part of your Lordships to place a construction on the word "person" which would at once render illegal that mode of carrying on business by corporations without there being any allusion from the beginning to the end of the Act to any such intention by the Legislature. Besides, there is the 16th clause, which, providing for the case of a regularly qualified chemist and druggist dying, says it shall be lawful for his executors, administrators, and trustees to continue the business. It is true that the Legislature requires as a safeguard that the business shall be *bonâ fide* conducted by a duly qualified assistant; but, having that case in hand, the Legislature did not think that the object or policy of the Act demanded that the business should be altogether prohibited. It was not thought to be inconsistent with the object of the Act that the principals or proprietors to whom the persons actually selling the drugs were responsible should be unqualified persons, provided the persons actually selling were duly qualified. If the Legislature had not provided proper safeguards and precautions, then there would be a strong argument against corporations carrying on such a business; but when they have provided them, I think we should place upon the word "person" the more natural and limited con-



struction. For these reasons I am of opinion that the judgment of the Court of Appeal should be affirmed, and the appeal dismissed.

Lord BLACKBURN.—My Lords: I am of the same opinion, but I admit the question is not free from difficulty. The word "person," no doubt, includes a natural person and an artificial person—as, for instance, a corporation—and an Act of Parliament probably, unless something appears to the contrary, ought to be held to include both. In common talk one would not speak of the London and North-Western Rail-

way Company as the richest person in the country. All depends upon the subject and the context. To my mind it is quite clear that the word "person" in this Act does not include a corporation, and that there was no intention of the Legislature which requires us to extend its meaning. I agree that, where a corporate body keep an open shop for the sale of poisons, no harm will be done if they employ a properly qualified assistant to sell them.

Lord WATSON concurred.

*Judgment appealed from affirmed, and appeal dismissed, with costs.*



## PHARMACY LEGISLATION IN IRELAND.

PREVIOUS to 1875 the practice of pharmacy in Ireland, so far as the compounding of medical prescriptions was concerned, was in the hands of the apothecaries exclusively. The Irish Act of 1791, 31 George III., c. 34 (before the Union), entitled "An Act for the more effectually preserving the health of His Majesty's subjects, for erecting an Apothecaries' Hall in Dublin, and regulating the profession of an apothecary throughout the kingdom of Ireland," provided by section 22 that no person should "open shop and act in the art or mystery of an apothecary within the kingdom of Ireland" unless he were properly certificated by the Society.

When the Pharmacy Act of Great Britain was before Parliament in 1868 several members of both Houses expressed a wish to extend its provisions to Ireland, but a definite proposal to that effect was withdrawn in consequence of the Attorney-General for Ireland undertaking to prepare a corresponding measure applicable to that country subsequently. A change of Government occasioned some delay, but in 1870 a Bill on the same lines as the Act of 1868, drafted by the Irish Apothecaries' Company, was submitted by the Attorney-General for Ireland. Before it was printed, however, a decision had been arrived at to proceed only with the clauses assimilating the regulations of the sale of poisons in Ireland to those adopted in Great Britain, and this Bill passed as

THE SALE OF POISONS (IRELAND) ACT, 33 and 34 Vict., c. 26.

Whereas it is expedient for the safety of the public that due provision should be made to regulate the sale of poisons in Ireland:



Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

*Articles named in Schedule (A.) to be deemed Poisons within meaning of this Act.*

1. The several articles mentioned in the Schedule (A.) to this Act annexed shall be deemed to be poisons within the meaning of this Act; and the King and Queen's College of Physicians in Ireland may from time to time, by resolution, declare that any article other than those mentioned in the said schedule and in such resolution named ought to be deemed a poison within the meaning of this Act; and thereupon the said College shall submit the above resolution for the approval of her Majesty's Privy Council in Ireland, and if such approval shall be given, then such resolution and approval shall be advertised in the *Dublin Gazette*; and on the expiration of one month from such advertisement the article named in such resolution shall be deemed to be a poison within the meaning of this Act.

*Regulations to be Observed in the Sale of Poisons.*

2. It shall be unlawful to sell any poison, either by wholesale or by retail, unless the box, bottle, vessel, wrapper, or cover in which such poison is contained, be distinctly labelled with the name of the article, and the word "poison," and with the name and address of the seller of the poison; and it shall be unlawful to sell any of the poisons which are named in the first part of Schedule (A.) to this Act annexed, or which may hereafter be added thereto under section 1 of this Act, to any person unknown to the seller, unless such person is introduced by some person known to the seller; and on every sale of any such article the seller shall, before delivery, make or cause to be made an entry in a book to be kept for that purpose, stating, in the form set forth in the Schedule (B.) to this Act annexed, the date of the sale, the name and address of the purchaser, the name and quantity of the article sold, and the purpose for which it is stated by the purchaser to be required, to which entry the signature of the purchaser and of the person (if any) who introduced him shall be affixed; and any person selling poison otherwise than is herein provided shall be liable to a penalty not exceeding 5*l.* for the first offence, and to a penalty not exceeding 10*l.* for the second or any subsequent offence; and for the purposes of this section the person on whose behalf any sale is made by any apprentice or servant shall be deemed to be the seller; but the provisions of this section which are solely applicable to poisons in the first part of the Schedule (A.) to this Act annexed, or which require that the label shall contain the name and



address of the seller, shall not apply to articles to be exported from Ireland by wholesale dealers, nor to sales by wholesale to retail dealers in the ordinary course of wholesale dealing; nor shall any of the provisions of this section apply to any medicine supplied by a duly qualified apothecary, nor apply to any article when forming part of the ingredients of any medicine dispensed by a duly qualified apothecary, provided such medicine be labelled in the manner aforesaid with the name and address of the seller, and the ingredients thereof be entered, with the name of the person to whom it is sold or delivered, in a book to be kept by the seller for that purpose; and nothing in this Act contained shall repeal or affect any of the provisions of the Act of the fourteenth and fifteenth years of the reign of Her present Majesty, intituled "An Act to regulate the Sale of Arsenic."

*Adulteration of Food or Drink Act to Extend to Medicines.*

3. The provisions of the Act of the twenty-third and twenty-fourth years of the reign of her present Majesty, intituled "An Act for the Preventing the Adulteration of Articles of Food or Drink," shall extend to all articles usually taken or sold as medicines, and every adulteration of any such article shall be deemed an admixture injurious to health.

*Recovery and Application of Penalties.*

4. Every penalty recoverable under the provisions of this Act shall be recoverable in a summary way, with respect to the police district of Dublin metropolis, subject and according to the provisions of any Act regulating the powers and duties of justices of the peace for such district or of the police of such district; and with respect to other parts of Ireland, before a justice or justices of the peace sitting in petty sessions, subject and according to the provisions of the Petty Sessions (Ireland) Act, 1851, and any Act amending the same, and shall be applied according to the provisions of the Fines Act (Ireland), 1851, or any Act amending the same.

SCHEDULE (A.).

PART I.

Arsenic and its preparations.  
 Prussic acid.  
 Cyanide of potassium and all metallic cyanides.  
 Strychnine, and all poisonous vegetable alkaloids and their salts.  
 Aconite and its preparations.  
 Emetic tartar.  
 Corrosive sublimate.  
 Cantharides.  
 Savin and its oils.  
 Ergot of rye and its preparations.



## PART II.

Oxalic acid.

Chloroform.

Belladonna and its preparations.

Essential oil of almonds, unless deprived of its prussic acid.

Opium and all preparations of opium or poppies.

Preparations of corrosive sublimate.

Preparations of morphine.

Red oxide of mercury (commonly known as red precipitate of mercury).

Ammoniated mercury (commonly known as white precipitate of mercury).

Every compound containing any of the poisons mentioned in this schedule, when prepared or sold for the destruction of vermin.

The tincture and all vesicating liquid preparations of cantharides.

Added by notice in *Dublin Gazette*, January 15, 1875:—

Phosphorus and all preparations containing it in a free state.

Chloral hydrate and all its preparations.

Added March 16, 1883:—

*Nux vomica* and its preparations.

Added November 29, 1890:—

Sulphuric ether.

## SCHEDULE (B.).

Date	Name of Purchaser	Name and Quantity of Poison Sold	Purpose for which it is Required	Signature of Purchaser	Signature of Person intro- ducing Purchaser

It will be observed that the principal section of this Act is a copy of the 17th section of the British Pharmacy Act. The only difference now existing between the poisons regulations of the two countries is that by subsequent additions "phosphorus and all preparations containing it in a free state" and "sulphuric ether" have been added to Part II. of the Irish schedule, but not to that of the Act in operation in Great Britain. Sulphuric ether was added in consequence of frequent complaints of the drinking of ether as an intoxicant in some parts of Ireland. Preparations of prussic acid which were added to the British schedule, do not appear as such in the Irish schedule. Probably the mention of the poison itself covers its sale in any form. The sale of poisons was not restricted by the Act now under consideration to



any particular class of persons, and the title "chemist and druggist" was open to everyone. Additions to the schedule were to be made in Ireland (section 1) by resolution of the King and Queen's College of Physicians in Ireland, subsequently approved by the Privy Council.

The pharmaceutical conditions of Ireland were recognised on all sides to be unsatisfactory. The public were inconvenienced, the physicians irritated, and the chemists and druggists, who from the necessity of the case had become established throughout the country, were hampered in their business by the absurd system of compelling men who wished to be pharmacists to undergo a long medical curriculum and pass a medical examination. The Apothecaries' Company had power to provide an examination in pharmacy only, but this they refused to arrange for, although some druggists applied for it. But they did not defend the system which actually prevailed, and in 1870 they drafted a Bill with the object of providing for the creation of a Pharmaceutical Society of Ireland. They proposed that until the Society was formed examinations qualifying candidates to assume the title and functions of pharmaceutical chemists should be conducted by examiners appointed by the Apothecaries, the Board to ultimately consist of the governor and deputy-governor, with six members of the Court of Apothecaries' Hall and six examiners appointed by the Pharmaceutical Society. The Bill never came before Parliament; but within the next few years some of the leading chemists and druggists of Dublin formed themselves into an association, with the object of obtaining legislation in the direction desired. There was at first some suggestion of aiming at the extension of the British Pharmacy Act to Ireland, but this idea was not followed up. Negotiations were, however, opened with the apothecaries, who showed themselves willing to alter their draft Bill in such a manner as to satisfy the chemists and druggists. A joint deputation of apothecaries and druggists waited upon the Chief Secretary in January, 1874, urging him to make the Bill agreed upon a Govern-



ment measure, and obtained his promise that the matter should be considered. Soon afterwards opposition to the action of the Apothecaries' Hall came from some of the licentiates, and, in consequence, the relations of the Court of Apothecaries and the druggists became a little less cordial. The former, in sending their draft Bill to the Attorney-General, inserted a few alterations giving themselves more power, without consulting their associates, and the latter resented this proceeding. Just then the King and Queen's College of Physicians of Ireland suddenly intervened with a Bill, the object of which was to extend the British Pharmacy Acts to Ireland, the Pharmaceutical Society of Great Britain to establish examinations in Dublin as in Edinburgh. The apothecaries opposed this measure, and complained of the discourtesy of the physicians in interfering without consulting them. The Bill was, however, introduced into the House of Commons by Mr. Errington, under the title of "The Apothecaries' Licences Bill," was read a second time, and referred to a select committee. The committee took the evidence of Dr. Leet and Mr. Collins as representatives of the Irish apothecaries; of Mr. Hayes, the secretary of the Irish Druggists' Association; of Mr. Sandford, president of the British Pharmaceutical Society; of Mr. Mackay, to explain the working of the Society in Scotland; and of Sir Dominic Corrigan, M.D. and M.P., who warmly advocated an independent Pharmaceutical Society for Ireland. In his evidence, showing the necessity for some legislation, he instanced one union of six towns, in none of which was there any person who could compound a physician's prescription without rendering himself liable to a penalty of 20*l*. The select committee reported (see *THE CHEMIST AND DRUGGIST*, August 15, 1874) recommending the formation of an independent Pharmaceutical Society of Ireland, but urging that the examinations, fees, and qualifications there should be identical with those of Great Britain, that there should be a common register, and that licentiates of each Society should have equal rights and privileges in the three kingdoms.



A Bill embodying these recommendations was introduced into the House of Commons in the next session by the Chief Secretary for Ireland (Sir M. Hicks-Beach). The provision of reciprocity of rights was warmly opposed by the Council of the British Pharmaceutical Society, and was ultimately abandoned. The Bill was passed on August 11, 1875, in the terms appended. It created a first Council, authorised and protected the titles "pharmaceutical chemist" and "chemist and druggist," provided for examinations, and gave the compounding of medical prescriptions and the sale of poisons into the hands of the Society's licentiates, saving the rights of licensed apothecaries.

AN ACT TO INSTITUTE A PHARMACEUTICAL SOCIETY, AND TO REGULATE THE QUALIFICATIONS OF PHARMACEUTICAL CHEMISTS AND OF CHEMISTS AND DRUGGISTS IN IRELAND.

August 11, 1875.

[The words between brackets were repealed by the Amendment Act, 1891, 53 & 54 Vict., c. 45.]

Whereas by an Act passed by the Parliament of Ireland in the thirty-first year of the reign of his Majesty George the Third, intituled "An Act for the more effectually preserving the health of his Majesty's subjects, for erecting an Apothecaries' Hall in the city of Dublin, and regulating the profession of an apothecary throughout the kingdom of Ireland" (in this Act referred to as "the Act of 1791"), it is enacted that no person shall open shop or practise the art and mystery of an apothecary within the kingdom of Ireland until he shall have been examined as to his qualification and knowledge of the business by the persons and in the manner by the said Act prescribed, and shall have received a certificate to open shop or follow the art and mystery of an apothecary within the kingdom of Ireland from the Governor and Directors of the Apothecaries' Hall of the city of Dublin:

And whereas a great deficiency exists throughout Ireland of establishments and shops for the sale of medicines and compounding of prescriptions, and great inconvenience thereby arises to the public in many parts of the country:

And whereas to remedy such inconvenience it is expedient to amend the Act of 1791, and to enable persons who, although they do not desire to practise the art and mystery of an apothecary, desire and are qualified to open shop for the retailing, dispensing, and compounding of



poisons and medical prescriptions, to keep open shop for the purposes aforesaid :

And whereas for the purposes aforesaid it is expedient that provisions such as are in this Act contained should be made for the formation of a Pharmaceutical Society in Ireland, and for the examination of persons desiring to keep open shop for the purposes aforesaid, and for the registration of such of the said persons as may be found, on examination, to possess a competent practical knowledge of pharmaceutical and general chemistry and other branches of useful knowledge, as fit persons to keep open shop for the dispensing and compounding of prescriptions of duly qualified medical practitioners :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

*Short Title.*

1. This Act may be cited as "The Pharmacy Act (Ireland), 1875."

*Limit of Act.*

2. This Act shall apply to Ireland only.

*Interpretation of Terms.*

3. In this Act—

The term "Lord Lieutenant" shall mean the Lord Lieutenant or other chief governor or governors of Ireland for the time being :

The term "Privy Council" shall mean her Majesty's Privy Council in Ireland :

The term "Licentiate of Apothecaries' Hall" shall mean a person who has a certificate to open shop or to follow the art and mystery of an apothecary under the provisions of the Act of 1791.

CONSTITUTION AND INCORPORATION OF THE PHARMACEUTICAL  
SOCIETY OF IRELAND.

*Pharmaceutical Society of Ireland Constituted and Incorporated.*

4. A society to be called "The Pharmaceutical Society of Ireland" shall be constituted as hereinafter mentioned, and such society shall by such name be a body corporate, and have perpetual succession and a common seal, and sue and be sued, and have power and authority to take, purchase, and hold land for the purposes of this Act.

*Members of Pharmaceutical Society of Ireland.*

5. The following persons, that is to say, William Allen, of Henry Street, Dublin, Miles Vernon Bourke, M.D., of Limerick, Thomas



Collins, M.R.C.S.E., of Harcourt Street, Dublin, Sir Dominic Corrigan, Baronet, Physician in ordinary to the Queen in Ireland, William Frazer, F.R.C.S.I., of Harcourt Street, Dublin, John Goodwin, of Merrion Row, Dublin, William Goulding, of Summerhill House, Cork, William Harrington, Licentiate of Apothecaries' Hall, of Cork, William Hayes, of Grafton Street, Dublin, John Frederick Hodges, M.D., of Belfast, Edward M. Hodgson, of Capel Street, Dublin, John Thomas Holmes, of Upper Baggot Street, Dublin, Charles Henry Leet, M.D., of Rathmines, near Dublin, Rawdon Macnamara, F.R.C.S.I., of Stephen's Green, Dublin, George B. Owens, M.D., of Lower Baggot Street, Dublin, Richard Ward Pring, of Belfast, James Emerson Reynolds, M.D., of Upper Leeson Street, Dublin, John Ryan, M.D., of Francis Street, Dublin, Aquilla Smith, M.D., of Lower Baggot Street, Dublin, Charles R. C. Tichborne, of Waltham Terrace, Blackrock, near Dublin, Henry Whitaker, M.R.C.S.E., of Belfast, and all other persons who shall be qualified and elected in the manner prescribed by this Act, shall be members of the Pharmaceutical Society of Ireland, and the said persons in this section specifically named as such members as aforesaid shall constitute and be the first council of the Pharmaceutical Society of Ireland.

There shall be a president and vice-president of the said Society, and the said Sir Dominic Corrigan, Baronet, shall be the first president, and the said Aquilla Smith, M.D., the first vice-president of the said council.

*Persons who may be elected Members of Pharmaceutical Society and of the Council.*

6. Every person who shall be registered under this Act as a pharmaceutical chemist shall be qualified to be elected as a member of the said Pharmaceutical Society; and every person so registered and elected a member of the said Pharmaceutical Society shall be qualified to be elected, and when elected to act as a member of the council of the said Pharmaceutical Society.

*Term of Office of President and Vice-President.*

7. The persons by this Act named as president and vice-president of the said council, and their successors in such offices respectively, shall hold the office of president and vice-president respectively during one year, but shall be eligible for re-election, and in case of any vacancy in the office of president or vice-president of the said council caused by such president or vice-president ceasing to be a member of the said council, or by the resignation or incapacity of any such president or vice-president, such vacancy shall be filled by the election of some member of the said council to fill such vacancy.



*Council to go out of Office by Rotation.*

8. The members of the said council shall go out of office by rotation in the following manner, viz. :—On the first Monday of October in the year one thousand eight hundred and seventy-six one-third of the members of such council shall go out of office, and on the first Monday of October in the following year another third of the members of such council shall go out of office, and on the first Monday of October in the following year the remainder of the members of such council shall go out of office; and on the first Monday of October in every subsequent year one-third of the members of such council (being those who have been longest in office) shall go out of office; and in each instance the places of the retiring members of such council shall be supplied by the election by the members of the said Pharmaceutical Society on the first Monday of October in each year of a like number of their body to act as members of the said council in the place of the retiring members.

*Manner of making the Rotation List.*

9. In order to determine the rotation by which the first members of the said council shall go out of office, the said council shall at their first meeting under this Act form a rotation list, and at such meeting the chairman shall write the names of all the members on separate slips of paper, all as nearly as may be of equal size, and having folded them up in the same manner, he shall put them into a ballot box, and shall in the presence of the meeting draw out such slips of paper in succession, and the names upon the slips so drawn shall be written by the chairman in a list in the order in which they are drawn; and every such list shall be kept among the papers of the said council, and the names therein shall be numbered consecutively, and the members of the said council shall retire from office in the order in which their names appear on such list, in the proportions in this Act mentioned.

*Retiring Members eligible to be re-elected.*

10. Every member of the said council going out of office by rotation may be re-elected, and after such re-election he shall with reference to going out by rotation be considered as a new member.

*As to Filling-up of occasional Vacancies.*

11. If any extraordinary vacancy shall be occasioned in the said council, the said council shall, on a day to be fixed by the president of the said society (such day not to be later than *ten days*\* after such vacancy has been signified to the said president), elect another person to supply

\* The Amendment Act, 1890, substitutes the words "the second monthly meeting" for the words italicised.



such vacancy, and every person so elected shall continue a member of the said council until the time at which the person in the room of whom he was chosen would regularly have gone out of office, and he shall then go out of office, but shall be capable of immediate re-election.

*Elections.*

12. Elections of members of the said council, and of president and vice-president thereof, under this Act, shall be held and the voting and other proceedings in the case of a contest shall be conducted in the manner prescribed by regulations made in pursuance of this Act.

*Proceedings at Meetings of Council.*

13. At a meeting of the said council the president, or in his absence the vice-president, shall act as chairman, and in case the president and vice-president shall both be absent, one of the members present shall be elected chairman by the majority present.

At all meetings of the said council the questions there considered shall be decided by a majority. In case of an equal division, the chairman shall, in addition to his own vote, have a casting vote.

No business shall be transacted at any meeting of the said council unless seven members of the council be present, and all the powers under this Act vested in the council may be exercised by any seven or more of the council present at any meeting of the council.

*First Meeting.*

14. The council of the said Pharmaceutical Society shall hold their first meeting within six months after the passing of this Act at such place in the city of Dublin, at such hour, and on such day as the Chief Secretary to the Lord Lieutenant may respectively order and appoint, and they may adjourn such meeting from time to time as shall seem fit.

*Council may allow certain Persons to acquire Title of "Chemist and Druggist."*

15. [The said council may at their first or any subsequent meeting by resolution determine upon allowing certain persons to acquire the title of "chemist and druggist," subject to such terms and conditions as the said council shall think proper.]

*Regulations for Execution of Act.*

16. At the first meeting of the said council, or some adjournment of the same, they may, subject to the provisions of this Act, make regulations with respect to the matters following :—

(1.) The meetings and other proceedings of the said council ;



(2.) The examination of persons desirous of being registered as pharmaceutical chemists under this Act;

(3.) [The examination of persons desirous of being registered as chemists and druggists under this Act, in case the said council shall think proper to allow persons to acquire the title of "chemist and druggist"];

(4.) The times at which and the mode in which elections of members and associates of the said Pharmaceutical Society are to be held and conducted;

(5.) The mode in which elections of members of the council, and of president and vice-president thereof, are to be held and conducted;

(6.) The fees to be charged for examination, licence, and registration under this Act, and the entrance fees and annual subscriptions to be paid by members of the said Pharmaceutical Society, and the application of the same, and of all moneys received by the treasurer under this Act;

(7.) The duties of the registrar, treasurer, clerks, and other subordinate officers, and the manner in which the same shall be discharged and the salaries to be paid to such officers respectively; and

(8.) Generally for all such other matters as may be necessary for the due execution of this Act.

The said council may from time to time, at any meeting of the council held at any time after the expiration of six months after such first meeting, revoke or alter any such regulation, and make new regulations instead thereof, or in addition thereto.

*Resolution and Regulation to be approved by Lord Lieutenant and Privy Council.*

17. [Any resolution made under the authority of this Act with respect to the title of "chemist and druggist," and] every regulation made under the authority of this Act, shall be subject to the approval of the Lord Lieutenant and Privy Council, and shall be of no force or effect until the same shall respectively be so approved, and notice of such approval shall be published in the *Dublin Gazette*.

Any resolution and all regulations made under the authority of this Act and approved as aforesaid shall be laid before both Houses of Parliament within twenty-one days after the same shall be made, if Parliament be sitting at such time, or if Parliament be not sitting within twenty-one days after the commencement of the next session of Parliament after the making thereof.

Any such resolution and all such regulations when so approved shall be of the like force and effect as if they had been enacted in this Act.



*Persons who may be elected Associates of the Pharmaceutical Society*

18. [Every person who shall be registered under this Act as a chemist and druggist shall be qualified to be elected an associate of the said Pharmaceutical Society, subject to the regulations made in pursuance of this Act; and every person so elected and continuing as such associate, being in business on his own account, shall have the privilege of attending all meetings of the said society, and of voting thereat, and otherwise taking part in the proceedings of such meetings in the same manner as members of the said society: Provided always, that such associates contribute to the funds of the said society the same fees or subscriptions as members contribute for the time being under the regulations thereof.]

## GENERAL PROVISIONS.

*Following Provisions not to take effect until Approval of Regulations.*

19. The following provisions of this Act shall not take effect until after the publication in the *Dublin Gazette* of the notice of the approval of the regulations made at the first meeting of the said council, [and so far as the said provisions relate to chemists and druggists under this Act they shall only take effect after the publication in the *Dublin Gazette* of the notice of the approval of a resolution with respect to the title of "chemist and druggist."]

*Appointment of Registrar and Treasurer.*

20. The said council may from time to time appoint a fit and proper person as a registrar under this Act, and shall have power to remove any such registrar from the said office, and may also appoint and remove from time to time a treasurer, and such clerks and other subordinate officers as may be requisite for carrying out the provisions of this Act, and also to pay suitable salaries to the said registrar, treasurer, clerks, and officers.

*Examination.*

21. For the purpose of ascertaining the qualification of persons desirous of keeping open shop for the retailing, dispensing, or compounding poisons or medical prescriptions, and being registered as pharmaceutical chemists [or as chemists and druggists] under this Act, the said council shall cause examinations to be held at such times and in such manner as may be prescribed by regulations made in pursuance of this Act, and the said council shall appoint examiners to conduct the same: Provided always, that no person shall conduct any examination for the purposes of this Act until his appointment has been approved by the Lord Lieutenant and Privy Council, and such appointment shall not in any case be in force for more than five years; and



that it shall be the duty of the said Pharmaceutical Society to allow any officer appointed by the Lord Lieutenant and Privy Council for that purpose to be present during the progress of any examination held for the purposes of this Act.

All persons desirous of being registered as pharmaceutical chemists under this Act may at any such examination present themselves for examination, and they shall be examined with respect to their knowledge of the Latin and English languages, of arithmetic, of botany, of materia medica, of pharmaceutical and general chemistry, of practical pharmacy, of the British Pharmacopœia, and of such other subjects as may from time to time be prescribed by any regulations made in pursuance of this Act; [and all persons desirous of being registered as chemists and druggists under this Act may at any such examination present themselves for examination, and they shall be subjected to such a modified examination with respect to their knowledge of the subjects aforesaid as may from time to time be prescribed by any regulations made in pursuance of this Act:] Provided always, that such examinations shall not include the theory and practice of medicine, surgery, or midwifery, or any branch of medicine or surgery; and the examiners appointed by the council are hereby empowered, after such examinations respectively, to grant or refuse to such persons, as in their discretion may seem fit, certificates of competent knowledge and qualification and skill to be registered as pharmaceutical chemists [or as chemists and druggists] under this Act: Provided always, that in case of rejection a rejected candidate shall not present himself for re-examination until after six months after such rejection.

*Persons entitled to be Registered under this Act.*

22. Every person by this Act nominated as a member of the council of the Pharmaceutical Society of Ireland shall be entitled to be registered as a pharmaceutical chemist without payment of any fees or charges; and every person who shall be duly examined in accordance with the provisions of this Act, and who shall be certified by the examiners to be qualified to act as a pharmaceutical chemist, and every licentiate of Apothecaries' Hall, shall upon giving to the registrar such reasonable proof thereof as may be required under any regulations made by the council of the said Pharmaceutical Society in that behalf, and upon payment of the proper fees and charges, be entitled to be registered under this Act as a pharmaceutical chemist.

[Every person who shall be duly examined in accordance with the provisions of this Act, and who shall be certified by the examiners to be qualified to act as a chemist and druggist, shall, upon giving to the registrar such reasonable proof thereof as may be required under any



regulations made by the council of the said Pharmaceutical Society in that behalf, and, upon payment of the proper fees and charges, be entitled to be registered under this Act as a chemist and druggist.]

*Fees for Examination, Licence, and Registration.*

23. For every examination, licence, and registration such reasonable fees or charges shall be paid as shall from time to time be fixed and determined by any regulation or regulations to be made by the said council in pursuance of this Act, and such fees shall be paid to the treasurer, and shall by him be applied to the purposes of this Act in manner prescribed by such regulations.

*Register of Pharmaceutical Chemists and of Chemists and Druggists.*

24. The registrar to be appointed under or by virtue of this Act shall from time to time make out and maintain a complete list (to be called the "Register of Pharmaceutical Chemists for Ireland") [and also a complete list (to be called the "Register of Chemists and Druggists in Ireland")] of all persons registered as pharmaceutical chemists [or as chemists and druggists respectively] under this Act, and in such register[s] the names shall be in alphabetical order according to the surnames, with the respective residences, in the form set forth in the schedule to this Act annexed, or to the like effect, and shall keep proper indexes of such register[s], and all such other lists and books as may be required by the said council and as may be necessary for giving effect to the regulations of the said council and to the provisions of this Act.

*Duty of Registrar to make and keep Registers.*

25. It shall be the duty of the registrar to keep the said register[s] corrected, and to erase the names of all registered persons as and when they shall die, and from time to time to make the necessary alterations in the addresses of the persons registered under this Act; and to enable the registrar duly to fulfil such duties, it shall be lawful for him to write a letter to any registered person, addressed to such person according to his address on the register, to inquire whether he has ceased to carry on business or has changed his residence, such letter to be forwarded by post as a registered letter, according to the post-office regulations for the time being, and if no answer shall be returned to such letter, within the period of six months from the sending of the letter, a second of similar purport shall be sent in like manner, and if no answer be given thereto within three months from date thereof it shall be lawful to erase the name of such person from the register: Provided always, that the same may be restored by direction of the said council should they think fit to make an order to that effect.



*Evidence of Qualification to be given before Registration.*

26. No name shall be entered in the said registers except of persons authorised by this Act to be registered, nor unless the registrar be satisfied by the proper evidence that the person claiming is entitled to be registered ; and any appeal from the decision of the registrar may be decided by the said council ; and any entry which shall be proved to the satisfaction of the said council to have been fraudulently or incorrectly made may be erased from or amended in the register under an order in writing of the said council.

*Annual Registers to be published and to be evidence.*

27. The registrar shall, in the month of January in every year cause to be printed, published, and sold, correct copies of the register of pharmaceutical chemists [and of the register of chemists and druggists], in alphabetical order according to the surnames ; and printed copies of such register[s] for the time being in force, purporting to be so printed and published as aforesaid, or any extract therefrom, or from the original register[s], certified under the hand of the said registrar, and countersigned by the president or two members of the said council, shall be evidence in all courts and in all proceedings that the persons therein specified are registered according to the provisions of this Act, and the absence of the name of any person from any such copy [of either] of the said register[s] shall be evidence, until the contrary shall be made to appear, that such person is not registered in such register [s] according to the provisions of this Act.

*Penalty on Wilful Falsification of Registers, or for Obtaining Registration by False Representation.*

28. Any registrar who shall wilfully make or cause to be made any falsification in any matter relating to the said register[s, or either of them], and any person who shall wilfully procure or attempt to procure himself to be registered under this Act, by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, and any person aiding or assisting him therein, shall be deemed guilty of a misdemeanour, punishable by fine or imprisonment, and shall on conviction thereof be sentenced to be imprisoned for any term not exceeding twelve months.

*Notice of Death of Pharmaceutical Chemist, or Chemist and Druggist, to be given by Registrars of Deaths.*

29. Every registrar of deaths in Ireland, on receiving notice of the death of any person registered under this Act as a pharmaceutical



chemist [or as a chemist and druggist], shall forthwith transmit by post to the registrar under this Act a certificate, under his own hand, of such death, with the particulars of the time and place of death, and on receipt of such certificate the said registrar under this Act shall erase the name of such deceased pharmaceutical chemist [or chemist and druggist] from the proper register, and shall transmit to the said registrar of deaths the costs of such certificate and transmission, and may charge the cost thereof as an expense of his office.

*Persons selling or compounding Poisons, or assuming the Title of "Pharmaceutical Chemist," to be qualified.*

30. So much of the Act of 1791 as prohibits the keeping of open shops within the meaning of the said Act by any person other than a licentiate of Apothecaries' Hall shall be repealed: Provided always, that it shall be unlawful for any person to sell or keep open shop for retailing, dispensing, or compounding poisons within the meaning of the Act of the session of the thirty-third and thirty-fourth years of the reign of her present Majesty, chapter twenty-six, or medical prescriptions, unless such person be registered as a pharmaceutical chemist [or a chemist and druggist] under this Act, or to assume or use the title of "pharmaceutical chemist," or "pharmaceutist," or "pharmacist," or "dispensing chemist," [or the title of "chemist and druggist,"] in any part of Ireland, unless such person shall be registered as a pharmaceutical chemist [or as a chemist and druggist respectively] under this Act; and any person acting in contravention of this enactment, or compounding any medicines of the British Pharmacopœia, except according to the formularies of the said Pharmacopœia, shall for every such offence be liable to pay a penalty of 5*l.*; but no such penalty shall exempt any person from being liable to any other penalty, damage, or punishment to which he would have been subject if this Act had not passed: Provided always, that nothing in this section contained shall affect any licentiate of Apothecaries' Hall, or any person who shall have been registered as a legally-qualified medical practitioner before the passing of this Act, or who shall be registered as a legally qualified practitioner after the passing of this Act, and who, in order to obtain his diploma, shall have passed an examination in pharmacy.

*Reserving Rights of certain Persons.*

31. Nothing in this Act contained shall extend to or interfere with the making or dealing in patent medicines, or with the business of wholesale dealers in supplying poisons in the ordinary course of wholesale dealing, [or of chemists or druggists who are practising as such in Ireland upon their own account at the time of the passing of this Act,]



save and except the provisions against the compounding of poisons or medical prescriptions, and against the preparing of any medicines of the British Pharmacopœia except according to the formularies of the said Pharmacopœia; and nothing in this Act contained shall prevent any person who is a member of the Royal College of Veterinary Surgeons of Great Britain, or holds a certificate in veterinary surgery from the Highland and Agricultural Society of Scotland, from dispensing medicines for animals under his care.

*Provision for Continuation of Business in Case of Death.*

32. Upon the decease of any person registered under this Act as a pharmaceutical chemist [or as a chemist and druggist], actually in business at the time of his death, it shall be lawful for any executor, administrator, or trustee of the estate of such pharmaceutical chemist [or chemist and druggist] to continue such business, if and so long only as such business shall be *bonâ fide* conducted by a duly qualified assistant, and a duly qualified assistant within the meaning of this section shall be a pharmaceutical chemist [or a chemist and druggist] registered as such under this Act.

*Registration not to entitle to Practice of Medicine, &c.*

33. Registration under this Act shall not entitle any person so registered to practise medicine or surgery, or any branch of medicine or surgery.

*Pharmaceutical Chemist may be Apothecary in Lunatic Asylum, &c.*

34. Any person registered as a pharmaceutical chemist under this Act shall be qualified to be appointed to and to hold the office of apothecary in any district lunatic asylum or county gaol or prison in Ireland, but shall not be entitled to prescribe for patients.

*Power to Erase Names from Register.*

35. The Lord Lieutenant and Privy Council may direct the name of any person who is convicted of any offence against this Act which in their opinion renders him unfit to be on any register under this Act to be erased from such register, and it shall be the duty of the registrar to erase the same accordingly.

*Recovery and Application of Penalties.*

36. Every penalty recoverable under the provisions of this Act shall be recoverable in a summary way, with respect to the police district of Dublin metropolis subject and according to the provisions of any Act regulating the powers and duties of justices of the peace for such



district or of the police of such district, and with respect to other parts of Ireland, before a justice or justices of the peace sitting in petty sessions, subject and according to the provisions of the Petty Sessions (Ireland) Act, 1851, and any Act amending the same.

One-third of every sum of money recovered as a penalty under this Act shall be paid to the person who shall be the means of bringing to justice any person committing any offence against any of the provisions of this Act, and the remainder of such sum shall be paid to the treasurer, and shall by him be applied to the purposes of this Act in the manner prescribed by any regulation made in pursuance of this Act.

#### SCHEDULE.

NAME	RESIDENCE	DATE OF REGISTRATION
A. B. .. ..	Grafton Street, Dublin ..	January 10, 187 .
C. D. .. ..	Patrick Street, Cork ..	March 4, 187 .
E. F. .. ..	Corn Market, Belfast ..	June 15, 187 .

Much of the complication of the above Act was caused by the attempt to provide for Ireland two classes of pharmacists—pharmaceutical chemists and chemists and druggists—as in Great Britain. In November, 1875, the Irish Pharmaceutical Council resolved, as they were authorised to do by section 15 of the Act, to adopt one grade only—namely, that of pharmaceutical chemist. Notice of motion had been given by one of the members of the Council proposing that the title “chemist and druggist” should be open to acquisition on passing a lower examination, and should mean a person entitled to keep open shop for the sale of drugs and poisons, but not for the compounding of prescriptions. The Act, however, did not authorise the Council to make any such distinction. Section 21 shows that the chemists and druggists contemplated by this Act were to be dispensers of prescriptions, as the same subjects are included in the examination for both grades (one of the subjects being practical pharmacy), and that if the Council established two grades under the Act both must have equal rights. The motion was consequently withdrawn.

In January, 1884, the Council of the Pharmaceutical Society resolved, by a majority of one, to seek powers to



license by examination a grade of registered druggists to be empowered to sell poisons but not to dispense prescriptions. In April of that year they reversed their decision, and struck out of an amending Bill which they had drafted a clause designed to carry into effect their previous resolution. The Bill was not proceeded with, but in the course of 1887 the Society was defeated in a prosecution at Belfast, on the ground that they could not prove by their register that the defendant was not one of those chemists and druggists whose rights had been reserved by section 31 of the 1875 Act. In 1888, after semi-abortive negotiations with representatives of the druggists, a Bill was drafted and introduced into the House of Lords by the Earl of Milltown. The Bill provided for the registration, on payment of a fee, of all persons who were practising as chemists and druggists in Ireland prior to August 11, 1875, and for the simple examination and registration of persons who had gone into business since, the title of such persons to be that of registered druggists. No provision for the perpetuation of chemists and druggists or registered druggists was comprised. This Bill was not satisfactory to the druggists, who opposed it. It was read a second time on June 8, 1888, and then referred to a select committee, composed of the Earls of Milltown, Limerick, and Meath, with Lords de Ros, Lingen, and Basing. The select committee made a few alterations in the Bill, making it rather more objectionable to the druggists than before. The druggists thereupon organised a strong opposition to it in the House of Commons, and rendered it impossible for its supporters to pass it. In the course of an autumn session the Council realised this impossibility; and, in the hope of getting the matter settled, the President, acting as the delegate of the Council, consented to a compromise, yielding nearly all the points in dispute. The title "chemist and druggist" was to be given to all in business up to the time of the passing of the Bill, and was to be perpetuated. The fee was to be reduced, representation on the Council was to be granted, and other clauses were modified. Opposition was withdrawn, but



the Bill was not passed, and the next year, when negotiations were reopened, the opposition to what was regarded as a surrender was so strong in the Pharmaceutical Council that the President and Vice-President (Messrs. Brunker and Draper) resigned their seats, and the matter was suspended.

In 1890 the Pharmaceutical Society recommenced prosecutions against some Belfast druggists. The persons summoned were said to have gone into business since 1875, to have sold poisons, and in some cases to have compounded medical prescriptions and to have assumed the title of chemist and druggist. Fines were imposed and appeals granted. The druggists responded by at once drafting a Bill on the lines of the Bill which had been abandoned after amendment, and getting it supported in Parliament by prominent men on both sides of the House of Commons. The Pharmaceutical Society opposed it, and got several alterations made in it in the House of Lords. The Bill as passed made a great difference in the conditions of pharmacy in Ireland, chemists and druggists and registered druggists becoming recognised vendors of drugs and poisons, but without the right to dispense prescriptions, this privilege being expressly reserved to pharmaceutical chemists and apothecaries. The druggists secured the right of associating themselves with the governing body, and of representation on the Council up to, but not beyond, seven seats. The Royal assent to this measure was signified on August 18, 1890, the last day of the Parliamentary session of that year. The following is the text of the Bill:—

#### THE PHARMACY ACT (IRELAND) AMENDMENT ACT, 1890.

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

##### *Short Title.*

1. This Act may be cited as the Pharmacy Act (Ireland), 1875, Amendment Act, 1890.

##### *Extent of Act.*

2. This Act shall apply to Ireland only.



*Interpretation.*

## 3. In this Act—

- “The principal Act” means the Pharmacy Act (Ireland), 1875.
- “The Society” means the Pharmaceutical Society of Ireland.
- “The Council” means the Council of the Society.
- “The Registrar” means the Registrar of the Society.
- “The Treasurer” means the Treasurer of the Society.
- “Poisons” mean all articles deemed to be poisons within the meaning of the Act thirty-three and thirty-four Victoria, chapter twenty-six, intituled “An Act to regulate the Sale of Poisons in Ireland.”

*Repeal of 38 and 39 Vict., c. 57, s. 15.*

4. Section 15 of the principal Act, and all other provisions of that Act empowering the Pharmaceutical Society of Ireland to create a grade of chemists and druggists legally qualified to dispense medical prescriptions, are hereby repealed.

*Register of Chemists and Druggists and Registered Druggists.*

5. The registrar shall, in the manner by this Act provided, from time to time make out and maintain complete lists, to be called “the register of chemists and druggists” and “the register of registered druggists in Ireland,” containing the names of all persons who have made application to be registered and are entitled to be registered as chemists and druggists and registered druggists respectively under the provisions of this Act, and the provisions of the principal Act with respect to the registers thereby authorised shall *mutatis mutandis* extend and apply to such registers, except so far as such provisions are altered by or are inconsistent with the provisions of this Act. All persons so registered shall be entitled to keep open shop for the sale, retailing, or mixing of poisons: Provided that nothing in this Act shall be deemed to confer on such persons any right to compound medical prescriptions.

*Chemists or Druggists Practising as such at Passing of 38 and 39 Vict., c. 57, entitled to be Registered.*

6. Every chemist and druggist, or chemist or druggist, who was practising as such in Ireland as a principal at the passing of the principal Act, shall be entitled to be registered as a chemist and druggist under this Act on complying with the following provisions:—

- (1.) He shall, within a year from the passing of this Act, make application in writing to the registrar to be registered under the provisions of this Act.



- (2.) Such application shall be accompanied by a statutory declaration of the applicant in the form set out in Schedule (A.) to this Act, or to the like effect: Provided that it shall be lawful for the council to require from any such applicant such evidence as they may think fit of the truth of the statements contained in the statutory declaration so made by him, and to require such other confirmatory evidence as they shall think sufficient.
- (3.) He shall pay to the treasurer of the society a fee of one guinea.
- (4.) Notwithstanding the provisions of section 31 of the principal Act, no person shall be entitled to keep open shop for the selling, retailing, or mixing of poisons by reason that he was a chemist and druggist practising as such in Ireland on his own account at the time of the passing of the principal Act, unless he shall be registered as a chemist and druggist under this Act.

*Chemists or Druggists in Business before Passing of Act entitled to be Registered.*

7. Every chemist and druggist, or chemist or druggist, who has gone into business as a principal after the passing of the principal Act and before the passing of this Act, shall be entitled to be registered as a druggist on complying with the following provisions:—

- (1.) He shall, on or before the first day of June, one thousand eight hundred and ninety-one, make application in writing to the registrar to be registered under the provisions of this Act.
- (2.) Such application shall be accompanied by a statutory declaration of the applicant in the form set out in Schedule (B.) to this Act, or to the like effect.
- (3.) He shall be examined with respect to his knowledge of reading and writing, elementary arithmetic, and the appearances of the poisons, drugs, and chemical salts in common use, and the Act of the session of the thirty-third and thirty-fourth years of the reign of her present Majesty, chapter twenty-six, and shall obtain from the examiner or examiners appointed by the Lord Lieutenant of Ireland to hold such examination a certificate of having satisfactorily passed the same.
- (4.) The Lord Lieutenant in Council shall appoint examiners to conduct the examinations prescribed by this section for applicants, and shall fix the fees to be paid to such examiners and to the society respectively in respect of such examinations, and the examinations shall be held in Dublin and at such other places as the Lord Lieutenant in Council shall consider necessary.



- (5.) Every person who went into business as a chemist and druggist as a principal between the passing of the principal Act and the passing of this Act, and who has styled himself chemist and druggist, and has complied with the provisions of this section, and passed the examination under this section, shall be permitted to retain the title of chemist and druggist.
- (6.) Every person who having styled himself as a chemist and druggist shall claim to retain the title of chemist and druggist under the provisions of this section shall, at the time of his application to be registered, make a statutory declaration stating when and where he was in business as a chemist and druggist styling himself as such.
- (7.) It shall be lawful for the council to require from any such applicant such evidence as they may think fit of the truth of the statements contained in the statutory declaration so made by him, and to require such other confirmatory evidence as they shall think sufficient.

*Registration of Registered Druggists.*

8. Every person who shall duly have completed, or shall duly complete, a term of service as apprentice or assistant of not less than four years to a pharmaceutical chemist, or to a licentiate apothecary, or to a person or persons who shall have become, or who had he or they survived or continued in business would have been entitled to become, a registered chemist and druggist, or registered druggist, under this Act, shall be entitled to be registered as a registered druggist under this Act on complying with the following provisions:—

- (1.) He shall make application in writing to the Registrar to be registered under the provisions of this Act.
- (2.) Such application shall be accompanied by a statutory declaration of the applicant in the form set out in Schedule (C.) to this Act, or to the like effect, with an additional declaration in the form set out in Schedule (D.), or to the like effect.
- (3.) He shall be examined with respect to his knowledge of English orthography and composition, arithmetic, and the weights and measures of the British Pharmacopœia, the appearance and properties of the various drugs and chemicals in general use, and the Act of the session of the thirty-third and thirty-fourth years of the reign of her present Majesty, chapter twenty-six, and shall obtain from the examiners appointed by the council to hold such examination a certificate of having satisfactorily passed the same.



- (4.) He shall pay to the treasurer of the society, on presenting himself for such examination, a fee of two guineas, and a further fee of two guineas on being registered.

Provided that if he shall fail to satisfy the examiner, he may present himself for subsequent examinations on paying the examiner's fees.

Provided also that evidence shall be adduced to the satisfaction of the council that the applicant has completed a term of apprenticeship such as hereinbefore described; and provided also that if the term of apprenticeship be continued after the expiration of one year from the passing of this Act it shall not entitle the applicant to present himself for examination, unless the term shall have been completed with a pharmaceutical chemist, a licentiate apothecary, or a registered chemist and druggist, or registered druggist under this Act.

*Examinations of Intending Druggists.*

9. It shall be the duty of the society to provide for examinations being held at which applicants for registration as registered druggists may present themselves for examination. Such examinations shall be held at not greater intervals than the examinations of persons desirous of being registered as pharmaceutical chemists under the principal Act, and shall be held at Dublin, Belfast, Cork, and such other places as may be convenient.

Provided that it shall not be compulsory on the society to cause any such examinations to be held outside Dublin unless at least twelve persons make application for examination thereat.

*Apprentices having passed Examination entitled to Registration.*

10. Every person who shall have served an apprenticeship of four years with a pharmaceutical chemist, a licentiate apothecary, a registered chemist and druggist, or a registered druggist shall be entitled to present himself for examination under this Act, and shall be entitled on passing his examination to be registered as a registered druggist under this Act, and every person who shall have served such apprenticeship to a registered chemist and druggist, or a registered druggist not being a pharmaceutical chemist, and who shall comply with the regulations of the society in force for the time being, and in addition shall have served an assistantship of two years to either a pharmaceutical chemist or a licentiate of the Apothecaries' Hall keeping open shop, shall be entitled to present himself for examination under the principal Act as a pharmaceutical chemist, and shall be entitled on passing his examination to be registered as a pharmaceutical chemist.



*Provisions of 38 and 39 Vict., c. 57, as to Examinations to extend to Examinations authorised by this Act.*

11. The provisions of the principal Act with respect to the examinations therein mentioned shall extend and apply to the examinations by this Act authorised, except so far as such provisions are altered by or are inconsistent with the provisions of this Act.

*Persons who may be elected Associates of the Pharmaceutical Society.*

12. (1.) Within three months after the passing of this Act, the society shall, subject to the provisions of the principal Act, make regulations for the election of registered chemists and druggists and registered druggists as associates of the Society under the title of associate druggists.

(2) Every person who shall be registered under this Act as a chemist and druggist or registered druggist shall be qualified to be elected an associate druggist, subject to any regulations made in pursuance of the principal Act and this Act, and every person so elected and continuing as such associate shall have the same privileges of voting for members of the council and of attending all meetings of the society and of voting thereat and otherwise taking part in the proceedings of such meetings as members of the society, and shall be qualified to be elected and when elected to act as a member of the council of the society: Provided always that such associates contribute to the funds of the society the same annual subscriptions as members contribute for the time being under the regulations thereof, and provided also that such associate druggists shall not style themselves associates of the Pharmaceutical Society, and any druggist making use of such title shall be liable to have his name erased from the register of associate druggists.

*First Election of Representatives of Chemists and Druggists to Council.*

13. At a date to be fixed by the council, but not later than the fifteenth day of January one thousand eight hundred and ninety-one, an election shall be held of seven persons (who shall be registered as druggists or chemists and druggists) to be additional members of the council of the society, and such election shall be held in like manner in all respects as an election of members of the council of the society in the place of retiring members held under the principal Act: Provided that the persons entitled to vote at the election of such seven members on the said council shall be persons who shall be then registered as chemists and druggists, or registered druggists. And every such person so voting at such election shall pay to the society a fee of one guinea as an annual subscription in respect of the year 1891.



*Election of New Council in 1891.*

14. At the annual election in October one thousand eight hundred and ninety-one, under the principal Act and this Act, the council of the society shall go out of office, and a new council shall be elected consisting of twenty-one members, not more than seven of whom shall be associate druggists, and the right of voting for members of council at this and all subsequent elections shall be common to both members of the Pharmaceutical Society and associate druggists. Provided nevertheless that the president and vice-president shall remain in office to conduct the election of October one thousand eight hundred and ninety-one, and declare the votes, but not longer unless duly elected, and the retiring rotation of members shall be determined in the same manner as is provided by section 9 of the principal Act. Provided also that in the event of the death or resignation of the said president and vice-president, or either of them, or their inability or unwillingness to conduct such election, it shall be lawful for the Lord Lieutenant to nominate and appoint some other person to conduct such election, who shall have the same power with respect thereto as if he had been elected chairman of the meeting.

*No Person to Assume Title of Registered Druggist, or Chemist and Druggist, or Sell Poisons, unless Registered.*

15. From and after the passing of this Act it shall be unlawful for any person to assume, and from and after the first day of January, 1892, it shall be unlawful for any person to use, the title of a registered druggist or chemist and druggist in any part of Ireland, or to sell poisons, unless such person shall be registered as a chemist and druggist, or registered druggist, under this Act, and any person acting in contravention of this enactment shall for every such offence be liable to pay a penalty not exceeding five pounds.

*Printed Copies of Registers to be sent to Inspectors of Weights and Measures, who shall Report any Person infringing Act.*

16. In the month of January in each year, the registrar shall send printed copies of the register of pharmaceutical chemists and of the register of chemists and druggists and of the register of registered druggists to the inspector of weights and measures in each constabulary district in Ireland, and it shall be the duty of such inspector to report to the council any offences against the provisions of the principal Act or this Act or the Act thirty-three and thirty-four Victoria, chapter twenty-six, entitled "An Act to Regulate the Sale of Poisons in Ireland,"



committed within his district; and one-third of every sum of money recovered as a penalty against any person so offending shall be paid to any such inspector who shall be the means of bringing such person to justice.

*Shop for Sale of Poisons, or Compounding Medical Prescriptions, to be Personally Managed by Owner or Qualified Assistant.*

17. Any person or persons lawfully keeping open shop for selling, retailing, or mixing poisons shall personally manage and conduct such shop and the retailing and mixing of poisons therein, or shall employ for the purposes aforesaid, as an assistant or manager in such shop, a duly registered chemist and druggist, or registered druggist, or pharmaceutical chemist or licentiate apothecary; and such person or persons lawfully keeping open shop as aforesaid shall, for the purposes of this Act and of the principal Act, be held to be the retailer and compounder of poisons aforesaid therein; and every person or persons lawfully keeping open shop for selling and retailing poisons, and dispensing and compounding medical prescriptions, shall personally manage and conduct such shop and the retailing, dispensing, and compounding of poisons and medical prescriptions therein, or shall employ for the purposes aforesaid, as assistant or manager in such shop, a duly qualified pharmaceutical chemist or licentiate apothecary; and such person or persons lawfully keeping open shop, as aforesaid shall, for the purposes of this Act and of the principal Act, be held to be the retailer and compounder of poisons or medical prescriptions as aforesaid therein; and any person or persons acting in contravention of this enactment shall for every such offence be liable to pay a penalty not exceeding five pounds.

*Registrar may require Name of Proprietor of Premises where Poisons sold, or Medical Prescriptions compounded, to be furnished to him.*

18. It shall be lawful for the registrar at any time to write a letter addressed to the proprietor or proprietors of any premises where open shop is kept for the selling, retailing, dispensing, or mixing of poisons or compounding of medical prescriptions (such letter to be delivered on the premises, or to be forwarded by post as a registered letter according to the post-office regulations for the time being in force), requiring such proprietor or proprietors, within seventeen days from the delivery of such letter, to furnish in writing to the registrar a statement of the name and address of the *bonâ-fide* proprietor or proprietors of such shop, and if such proprietor or proprietors do not personally manage and conduct such shop, the name of the duly qualified manager or



assistant managing or conducting the same, and the description of his qualification; and in case such proprietor or proprietors neglect to furnish such information to the registrar within the time aforesaid, he or they and each of them shall be liable to pay a penalty not exceeding 1*l.* for every day during which such default shall continue; and so long as such default shall continue it shall be unlawful for any person to sell or retail, dispense or mix poisons or compound medical prescriptions on such premises, and every person or persons acting in contravention of this enactment shall for every such offence be liable to pay a penalty not exceeding 5*l.*, unless he or they shall prove to the satisfaction of the court or justices having jurisdiction in the case that he or they did not know of such default. Every person who shall make a false statement in writing with intent to mislead in reply to any inquiry addressed to him by the registrar under this Act shall be held to have made a false declaration, and shall be liable to the penalty provided under section 28 of the principal Act.

*Examinations for Assistants to Pharmaceutical Chemists.*

19. The council may cause examinations to be held at such times and in such manner as may be prescribed by them from time to time for the purpose of examining assistants to pharmaceutical chemists, and such assistants as shall pass such examination shall be competent to transact the business of a licentiate of the Pharmaceutical Society in his temporary absence, but shall not be entitled to conduct or manage a business or to keep open shop on their own account.

*Amendment of 38 and 39 Vict. c. 57, s. 11.*

20. Section 11 of the principal Act shall be read and have effect as if the words "the second monthly meeting" were substituted for the words "ten days" in that section.

*Application of Moneys paid to Treasurer.*

21. All sums payable to the treasurer under this Act shall be applied by him under the direction of the council to the purposes of the principal Act and this Act.

*Penalties.*

22. All penalties recoverable under this Act shall be recoverable and applied in the same manner as penalties recoverable under the principal Act.

*Construction of Act.*

23. This Act and the principal Act shall be read together and construed as one Act.



## SCHEDULE (A.).

*Form of Declaration.*

To the Registrar of the Pharmaceutical Society of Ireland.

I, \_\_\_\_\_, residing at \_\_\_\_\_, in the county of \_\_\_\_\_,  
hereby declare that I was in business as a chemist and druggist on my own account  
[or that I was in business in the years \_\_\_\_\_], at \_\_\_\_\_, in the county  
of \_\_\_\_\_, on or before the eleventh day of August, one thousand eight hundred  
and seventy-five.

(Signed)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

## SCHEDULE (B.).

*Form of Declaration.*

To the Registrar of the Pharmaceutical Society of Ireland.

I, \_\_\_\_\_, residing at \_\_\_\_\_, in the county of \_\_\_\_\_,  
hereby declare that I was in business as a chemist and druggist [or chemist or drug-  
gist], as a principal, in the years \_\_\_\_\_, at \_\_\_\_\_, in the county of \_\_\_\_\_.

(Signed)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

## SCHEDULE (C.).

*Form of Declaration.*

To the Registrar of the Pharmaceutical Society of Ireland.

I, \_\_\_\_\_, residing at \_\_\_\_\_, in the county of \_\_\_\_\_,  
hereby declare that I have completed a full term of service as apprentice [or assistant]  
of \_\_\_\_\_ years to \_\_\_\_\_, a pharmaceutical chemist [or a licentiate  
apothecary, or a registered chemist and druggist, or a registered druggist who has  
been or would have been entitled to be duly registered under the Pharmacy Act  
(Ireland), 1875, Amendment Act, 1890].

(Signed)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

## SCHEDULE (D.).

*Form of Declaration.*

To the Registrar of the Pharmaceutical Society of Ireland.

I, \_\_\_\_\_, residing at \_\_\_\_\_, in the county of \_\_\_\_\_,  
hereby declare that \_\_\_\_\_ has \_\_\_\_\_ completed with me a full term of  
\_\_\_\_\_ years as apprentice [or assistant], ending \_\_\_\_\_, 18 \_\_\_\_.

(Signed)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.



The Act, as it is printed in the foregoing pages, was mainly in the form in which it was promoted by the Druggists' Associations of Ireland; but several important modifications were introduced into it in the House of Lords at the instance of the Pharmaceutical Council. Among these were the provision for the examination of druggists who had gone into business since the passing of the Act of 1875; in the original the title of "chemist and druggist" would have been perpetuated; higher fees for examination and registration were secured; none but members and associate druggists were given votes for the election of Council (the Bill as drafted would have made voting common to both grades without the payment of subscriptions). The representation of the druggists on the Council was reduced from nine to seven, leaving it optional to have the whole Council composed of pharmaceutical chemists if the majority of the voters should so desire. In section 10 the term for a druggist to serve to a pharmaceutical chemist before presenting himself for the licence examination was increased from one to two years.

In a summary of the Act published in *THE CHEMIST AND DRUGGIST*, August 23, 1890, Mr. J. E. Brunker, M.A., ex-President of the Pharmaceutical Society of Ireland, stated that—

The changes affecting the law of pharmacy in Ireland effected by the Act are, first and foremost, the recognition and perpetuation of a grade of druggists who may sell and mix scheduled poisons (sections 6, 7, 8, and 9), but not dispense medical prescriptions.

There is no doubt that Sir M. Hicks-Beach and others who were responsible for the principal Act had in their minds such a division of the trade; and it was probably owing to insufficient acquaintance with the actual state of things in the country that the clauses were so loosely drawn as to defeat their intention.

The persons entitled to register under the Act are divided into three classes—

1. Any chemist or druggist (section 6) who was practising as such on his own account prior to 1875 may be registered as a "*chemist and druggist*."

2. Any chemist or druggist (section 7) who has gone into business as a principal since 1875 may be registered as a "*registered druggist*" on



passing a very modified examination, which is to be conducted by examiners appointed by the Lord Lieutenant in Council. Those under this classification who have been styling themselves *chemists and druggists* may, on giving satisfactory proof to that effect, continue to use the title for life.

3. A person who has served four years (section 10) to a registered druggist, pharmaceutical chemist, or apothecary keeping open shop, may be registered as a "*registered druggist*" on passing a sufficient literary and technical examination.

The functions of the chemist and druggist of Great Britain would be quite different from those of persons bearing the same name in Ireland. The anomaly remains to a limited extent in the case of those whose vested rights have been protected, but they will in course of time drop out.

The further possibility of confusion has been removed by the repeal, under section 4, of the powers which the Pharmaceutical Society possessed of creating a grade of dispensing chemists and druggists.

Section 10 makes provision for the advancement of chemists and druggists to the higher grade of pharmaceutical chemist.

Section 12 gives to the Pharmaceutical Society a much wider and more democratic basis than it has hitherto had, since every registered druggist who cares to pay his annual guinea has been given as much voice in the affairs of the Society as members of the higher grade.

Section 13 provides for an *ad interim* representation of chemists and druggists upon the Council of the Society to enable them to take part in drawing up regulations for and conducting examinations of the new grade; the right to vote being made contingent on contributing to the Society's funds.

Section 14 provides that in October, 1891, full effect shall be given to the new constitution of the Society, members and associates voting as a united body for an entirely new Council, of whom not more than seven shall be registered druggists or chemists and druggists.

Section 15 clearly defines that none can be a seller of poisons unless registered.

Section 16 affords very useful machinery for the discovery of persons infringing the principal Act or amending Act. In every constabulary district in Ireland an officer is appointed, usually an officer of the Royal Irish Constabulary, who acts as inspector of weights and measures, and in course of his duty has to visit every shop in his district. This officer is given a direct personal interest in the detection of offenders.

Section 17 forms a very important portion of the Act. It enforces the necessity of every shop kept open for the sale of poisons or com-



pounding medical prescriptions being under the personal management of a duly qualified proprietor, or a manager similarly qualified. It does more than this, however, inasmuch as it defines who the *seller* shall be, and he shall be the qualified proprietor.

The beaten track of legal interpretation in Great Britain is not followed, and it remains to be proved how far the working of this section may differ from the decisions laid down under the Act of 1868.

Is it not possible that corporations keeping open shop for retailing poisons or dispensing prescriptions in Ireland are under this section the *sellers*, and as such subject to all the penal consequences of section 16 of this Act and section 30 of the principal Act?

Section 18 is based upon clause 10 of the Bill drafted by the Pharmaceutical Society of Great Britain in 1883. It gives very sweeping inquisitorial powers to the Society, to enable it to identify owners and detect offenders.

Section 19 is only permissive, and as it does not define exactly the privileges or responsibilities of the certificated assistant, nor impose any obligation upon the principal to employ such an assistant, it will probably lie in abeyance. If availed of to any extent, it can only have the effect of restricting the number of those who will seek the licence of pharmaceutical chemist.

The remaining clauses are purely executive.



## LEGAL INTERPRETATIONS OF THE IRISH PHARMACY ACTS.

### COMPOUNDING MEDICAL PRESCRIPTIONS.

NUMEROUS prosecutions have been brought in Ireland in respect to the offence of compounding medical prescriptions by persons not authorised to do this. We quote a few which present special features.

The leading case deciding the right of pharmaceutical chemists, to the exclusion of chemists and druggists, to keep open shop for retailing, dispensing, and compounding medical prescriptions was that of the Pharmaceutical Society of Ireland *v.* Fee, tried in the Queen's Bench Division, Dublin, before Chief Justice Sir Michael Morris, Mr. Justice O'Brien, Mr. Justice Holmes, and Mr. Justice Gibson, on January 17, 1889. The action came before the Court on a case stated by the Ballybay Magistrates, for the opinion of the Judges as to whether the Magistrates were right in dismissing a summons at the suit of the Pharmaceutical Society, heard by the Magistrates on November 5, 1888, the defendant being alleged to have, on June 16, 1888, kept an open shop for retailing, dispensing, and compounding medical prescriptions, and on that date to have compounded a medical prescription for a witness employed by the plaintiff Society. The evidence showed that this witness received the prescription from a pharmaceutical chemist, took it to the defendant and asked him to fill it up, and that he was supplied with the medicine thus ordered. It was proved that the defendant was not on the register of pharmaceutical chemists. One of the arguments for the defendant



was that the prescription was not a proper medical prescription—that it was, in fact, only a trap to catch the defendant. Mr. Justice O'Brien said it professed to be a prescription, and he added that if a man went through a form of marriage, being already married, he would be guilty of bigamy, even though he did not intend to be married. The principal contention of the defendant, and the ground on which the Magistrates dismissed the summons, was that because there was no register kept of chemists and druggists by the Council of the Society under section 15 of the Act, the defendant was exempt from the penalty imposed by section 30. This decision, said the Lord Chief Justice, in pronouncing the unanimous decision of the Court, could not be upheld for a moment. Section 15 said the Council "might" decide upon allowing certain persons to acquire a title, but they had never acted on that decision, and by a resolution sanctioned by the Privy Council had declared that they did not intend to do so. Section 31 of the Act reserved the rights of chemists and druggists, such as the defendant, practising in Ireland at the time of the passing of the Act, "save and except the provision against the compounding of poisons and medical prescriptions." The Court therefore ruled that the defendant should have been convicted.

An appeal case was argued before the Belfast Recorder in May, 1890. The Magistrates had imposed a penalty on a dealer who had compounded a medical prescription, but counsel urged (this was before the 1890 Act) that the fact of the non-appearance of the defendant's name on the register could not be taken as evidence, because by the Act of 1875 (sections 24 and 27) two registers were contemplated, and the prosecution could not be sustained unless the absence of the name from both registers was established. It was further objected that the copy of the *Dublin Gazette* containing the notice of the resolution with respect to the title of chemist and druggist was not produced; and, lastly, that there was not sufficient evidence that the document was a genuine medical prescription. The Recorder said, in his judgment



sustaining the conviction, that it was not necessary to prove the compounding or making-up, but that it was sufficient if a shop was kept open for the purpose of doing this, and he considered this, as well as the actual compounding, had been proved.

#### SHOPS WITHIN SHOPS.

In August, 1891, the Pharmaceutical Society obtained judgments for penalties against two chemists and druggists in Dublin for keeping open shop for compounding and retailing medical prescriptions. The defendants in these cases had made agreements with a qualified pharmaceutical chemist, to whom they said they let a portion of their premises. His name appeared on the labels, and it was claimed that the unqualified druggists merely took in the prescriptions for him to dispense. One case was heard in the Southern Division Police Court, the other in the Northern Division, both on the same day, and both Magistrates held that the defendants had kept open shop for compounding medical prescriptions, and imposed fines accordingly.

In August, 1892, the Pharmaceutical Society prosecuted a chemist and druggist at Bangor (co. Down) for keeping open shop for compounding medical prescriptions, and for assuming the title "dispensing chemist." For the defence it was said that the defendant's brother, who was a qualified pharmaceutical chemist, had taken part of his premises, and that it was he (the pharmaceutical chemist) who had, in each of the cases testified to, received and compounded the prescriptions. The Bench considered the evidence insufficient to establish the charge, and they dismissed the summonses; but, as the qualified man had then left his brother, they ordered the word "dispensing" to be removed from the shop-front.

#### GETTING PRESCRIPTIONS COMPOUNDED OUTSIDE.

Some druggists subsequently sought to evade the provisions of the Act by receiving prescriptions and sending them out to a qualified man to be compounded, sharing the profits with the latter.



The legality of this course was tested in August, 1892. It was proved that the defendants, a firm of chemists and druggists in Dublin, who employed a qualified pharmaceutical chemist, had taken in a prescription to be dispensed. They had sent it to an apothecary in the neighbourhood to be dispensed. His unqualified assistant compounded it. The apothecary allowed the defendants 20 per cent. on prescriptions thus compounded. The Magistrate held that the defendants had kept open shop for compounding medical prescriptions, and penalties and costs were imposed. Notice of appeal was given, and a case was stated, but the appeal was subsequently withdrawn.

#### THE BRITISH QUALIFICATION NOT VALID IN IRELAND.

In April, 1892, the Pharmaceutical Society prosecuted a chemist at Cork for compounding medical prescriptions, he not being duly qualified under the Pharmacy Act of Ireland, 1875. For the defence it was stated that the defendant had qualified as a chemist and druggist in England in 1869, and as a pharmaceutical chemist (in England) in 1874. He had also taken the Pharmaceutical Society's silver medal for chemistry in Edinburgh. To this it was replied that these qualifications were of no avail in Ireland, the 30th section of the Pharmacy Act, 1875, providing that it should be unlawful for any person to compound medical prescriptions in Ireland unless he were registered *under that Act*, or had certain medical qualifications. The Magistrates, while expressing much sympathy with the defendant, found themselves obliged to impose a penalty of 5*l.* The defendant appealed, and the case came before the Recorder of Cork in June, 1892. The counsel for the defendant raised a technical objection. He claimed that the solicitor who represented the Pharmaceutical Society should produce his authorisation to act under the common seal of the Society. He said a corporation could only sue by a solicitor, and the solicitor could only act under seal. That had been the law since the reign of James I. The Recorder acquiesced in this view, and, holding that



there was no authorised prosecutor, reversed the decision of the Magistrates.

Many years ago an English apothecary started in practice in Dublin as such. The Apothecaries' Company (of Ireland) took proceedings against him, when he shut up shop and left the country.

Before there was a Pharmacy Act in Ireland, a much-respected chemist and druggist in Dublin for over twenty-five years employed a licentiate apothecary, and kept open shop for dispensing prescriptions, without the Apothecaries' Company interfering. But when another chemist and druggist commenced a similar procedure the Apothecaries' Company threatened proceedings. The chemists then took legal opinions on the point, and these being unfavourable to them, they discontinued the practice.

#### REDUCTION OF PENALTIES BY THE LORD LIEUTENANT.

In August, 1892, the Pharmaceutical Society brought an action against a chemist at Bangor (co. Down), alleging four offences. The Magistrates found two only proved, and imposed the statutory penalty of 5*l.* in each case, but recommended its reduction to 2*l.*s. in each case. The defendant memorialised the Lord Lieutenant, who acceded to his request, and reduced the penalties to 1*l.* in each case. This was done without any consultation with the Pharmaceutical Council, who addressed to the Under-Secretary at Dublin Castle a remonstrance at the course which had been adopted, pointing out the difficulty thus caused to the Council in administering the Act entrusted to them. The Council also stated that the Society's inspector was entitled to one-third of the penalty inflicted, and asked from what source that portion of the penalty was to be obtained, and also whether the Lord Lieutenant had the power to override the Act. The only reply obtainable from the authorities was a curt one to the effect that the responsibility lay with the Lords Justices, and that they had reduced the penalties after a careful consideration of all the circumstances.



## ETHER AS A POISON.

A prosecution of a druggist at Tubbermore for selling ether not duly labelled was reported in June, 1891. A nominal penalty of 1s. 2d. with costs was imposed, the Magistrates intimating that higher penalties would be imposed in future.

The first prosecution of a non-qualified dealer for selling ether occurred at Cookstown in April, 1892. Some grocers, &c., had the idea that they might still sell ether if they labelled it "Poison." The vendor at Cookstown was fined 5*l*.

PHARMACEUTICAL CHEMISTS AS COMPOUNDERS OF MEDICINES  
IN WORKHOUSES.

On March 24, 1877, a circular letter was issued by the Local Government Board of Ireland to all clerks of Unions in Ireland advising them that, having regard to sections 30, 33, and 34 of the Pharmacy Act, 1875, the Board were of opinion that where the compounding of medicines and prescriptions is wished to be separately provided for [section 33 provides that registration under the Pharmacy Act shall not entitle the person registered to practise medicine or surgery], a duly registered pharmaceutical chemist is eligible to act in that capacity in workhouses and dispensaries. [Section 34 allows him so to act in district lunatic asylums, county gaols, and prisons in Ireland.]

REPRESENTATIVES OF DECEASED APOTHECARIES NOT ENTITLED  
TO CARRY ON THEIR BUSINESSES.

At a meeting of the Council, held on October 4, 1882, a report from the Law Committee was read, stating that, a case having been submitted to Mr. Purcell, Q.C., as to the legality of pharmaceutical establishments conducted by the representatives of deceased apothecaries who had not been registered



as pharmaceutical chemists, Mr. Purcell had given the following opinion:—

## OPINION.

“I am clearly of opinion that neither of the cases comes within the provisions of the thirty-second section of the Pharmacy Act (Ireland), which apply only to the representatives of a pharmaceutical chemist or druggist *who was registered as such* during his lifetime; and, therefore, that the parties are not entitled to carry on the business of a pharmaceutical chemist or druggist under that Act. Nor are they so entitled as representatives of a licentiate apothecary, as the Apothecaries Act contains no provision enabling them to do so. By doing so, therefore, they incur, in my opinion, the penalty imposed by section 30 of the Pharmacy Act.

(Signed)

“T. A. PURCELL.

“September 18, 1882.”

Clause 22 of the Pharmacy Act (Ireland) enables licentiates of the Apothecaries' Hall to register as pharmaceutical chemists in Ireland without examination; and the Council has fixed the fee for such registration at three guineas.

It must be noted that the druggist referred to in Mr. Purcell's opinion is the chemist and druggist of the 1875 Act. The Act of 1890 is to be read with the Act of 1875, but it does not appear that there is any provision made for the carrying-on of the business of a registered druggist after his death.

## EXEMPTION FROM SERVICE ON JURIES.

Pharmaceutical chemists are, by the Juries Procedure (Ireland) Act, 1876 (39 & 40 Vict., c. 78), exempted from serving on juries in Ireland.

Licentiates of the Pharmaceutical Society are recommended to see that their names are removed from the list of jurors of the district in which they reside by the returning officer of the same.



## PHARMACY LEGISLATION IN THE AUSTRALASIAN COLONIES.

### THE SALE OF POISONS

is regulated by law in all the Australasian colonies on conditions not materially differing from those in force in Great Britain. The schedules are, however, somewhat more extended than in Great Britain. For instance, in certain of the colonies "Rough on Rats" has been specifically added, though, as this article is chiefly composed of arsenic, it would seem to have been covered by the schedules already in force.

The Victorian Poisons Schedule is as follows :—

#### PART I.

Arsenic, and all its preparations,  
and all solutions and admix-  
tures thereof (except green  
and other coloured pigments).  
Prussic acid, and its preparations.  
Strychnine, and its preparations,  
and all solutions or admix-  
tures thereof. (Recommended  
by Pharmaceutical Society that  
20 grains of Armenian bole be  
added to the ounce.)  
Savin, and its oil.  
Ergot of rye, and its preparations.  
Chloral hydrate.

All poisonous vegetable alkaloids,  
and their salts, and solutions or  
admixtures thereof.  
Aconite, and its preparations.  
Tartar emetic.  
Corrosive sublimate, and its pre-  
parations.  
Cantharides.  
Cyanide of potassium, and all  
metallic cyanides.  
Vermin-killers if preparations of  
poisons preparations of which  
are in Part I. of this schedule.



## PART II.

Oxalic acid.

Chloroform.

Belladonna, and its preparations.

Chloral hydrate, solutions and preparations of.

Opium, and all preparations of opium or of poppies.

Essential oil of almonds, unless deprived of its prussic acid.

Red oxide of mercury, or red precipitate.

Ammoniated mercury, or white precipitate.

The tincture and all vesicating liquid preparations of cantharides.

Vermin-killers, if not in Part I., are in Part II.

Carbolic acid.

Chloride of antimony.

Barium, salts of.

Zinc chloride.

Creasote.

Elaterium.

Elaterin.

Nux vomica.

Nitro-glycerine, medicinal.

Digitalis, and its preparations.

Phosphorus (except red amorphous).

The N.S.W. schedule is the most comprehensive of all. It includes iodide and bromide of potassium, as well as iodine, podophyllin, Goulard's extract, acetic acid, santonine, scammony, stramonium, valerian, verdigris, sulphates of zinc and of copper, laurel-water, chlorodyne, and ether, in addition to those substances scheduled in the other colonies. But in New South Wales it is said that, partly owing to defects in the Act itself, and partly owing to laxity, the Act is less regarded than in any other colony.

In places distant four miles from any city, town, or borough it is competent for the Boards to grant certificates for the sale of poisons to fit and proper persons, the fitness of such vendors to be guaranteed by a qualified medical practitioner and a police magistrate. The certificated vendor pays 20*s.* per annum for such licence, and he is bound to keep all poisons in a cupboard of such dimensions and with such shelves as the Pharmacy Board may direct. The word "poison" must be conspicuously painted or written on such cupboard, and no other articles may be placed or kept therein. This is the Victorian regulation, and similar ones are in force in other colonies.



The Governor of South Australia has power, under the Food and Drugs Act of the colony, to issue a proclamation in the Government Gazette setting forth the antidote or antidotes suitable for any poisons, with the dose, application, and method of administration. Within six months after this proclamation no poison is to be sold without such particulars being comprised on the label.

The Tasmanian law requires that antidotes shall be named on the labels.

By specific enactments

#### PHARMACY BOARDS

have been appointed in New South Wales (August, 1876), Victoria (December, 1876), New Zealand (August, 1880), Queensland (December, 1884), and South Australia (1891). The Boards of Victoria, New Zealand, Queensland, and South Australia consist each of seven members; that of New South Wales consists of the President of the N.S.W. Medical Board, the medical adviser to the Government, and of the Council of the Pharmaceutical Society of New South Wales. In all cases the members are elected for three years at a time. A quorum consists of three members. Each Board is also empowered to appoint a registrar. Regulations and by-laws made by either Board have to be approved by the Governor in Council, and published in the Gazette of the colony, before they can take effect.

In Tasmania the Medical Board has hitherto provided examinations and authorisation to practise, and has published annually a "List of Persons who are Licensed to Dispense Medicines." From 1892 the examinations have been under the control of the Pharmaceutical Society of Tasmania. In Fiji chemists are registered under the Medical Practitioners' and Apothecaries' Registration Ordinance, 1876. Western Australia is the only colony where there is no restriction.

Persons in business in any colony before the passing of the Act were entitled to registration on the production of certain certificates, and on the payment of 1*l.* in New



South Wales, or 2*l.* 2*s.* in either of the other colonies. In New South Wales persons thus registered are called "chemists and druggists"; in all the other colonies "pharmaceutical chemists." In South Australia an annual payment of 10*s.* 6*d.* is imposed. Names can be erased from the register for reasons of misconduct, with the approval of the Governor in Council. "Habitual intoxication" is named as a sufficient reason for erasure in New South Wales.

A person who "has been duly admitted a pharmaceutical chemist by the Pharmaceutical Society of Great Britain" is eligible for registration in New South Wales; in Victoria, New Zealand, and Queensland "a certificate or diploma of competence from the Pharmaceutical Society of Great Britain," and in the New Zealand Amendment Act such a certificate from the Pharmaceutical Society of Ireland is specifically added; and the Acts of these three colonies all give power to accept for registration the certificates or diplomas of any College or Board of Pharmacy or Society to be recognised under regulations made under the Acts.

The Victorian Pharmacy Act of 1876 has been incorporated in the Medical Act of 1890.

A British certificated chemist desiring to obtain registration in any Australasian colony must produce his certificate, and the registration fee will have to be paid. In New South Wales lately a British modified examination certificate was accepted, while a German apotheker's diploma was refused.

#### TITLES AND PRIVILEGES.

Titles are very strictly protected in most of the Acts, and in Victoria and South Australia explicitly, and probably in some other colonies by implication, the Acts forbid not only the assumption of the title, but also the carrying-on of the business of a chemist and druggist. The Victorian Act makes the unregistered person who carries on, or attempts to carry on, business as a chemist and druggist or homœopathic chemist, or either, liable to fine and imprisonment.



In South Australia it is penal for an unregistered person to assume the title of, "or act as," a pharmaceutical chemist, pharmacist, pharmacist, chemist and druggist, &c., and in this latter, as originally in that of New Zealand, the expression "or words of similar import" is added.

In the Queensland Act any person not duly registered as a pharmaceutical chemist, using or exhibiting any title, term, or sign which might be construed to mean that he was qualified to perform the duties of a pharmaceutical chemist, is liable to a fine of 20*l.*, or, in default, six months' imprisonment.

#### PENALTIES.

In Victoria persons are liable to a penalty not exceeding 10*l.*, and to imprisonment for any period not exceeding six months, if they carry on business as chemists, use a title implying qualification, or fail to comply with the provisions of the Act. Any registered chemist or person in his employ is also liable to a penalty of 10*l.* and to imprisonment for twelve months if he prescribe or practise medicine or surgery, "except in accordance with any rights and privileges hitherto enjoyed by chemists and druggists in their open shops." In New Zealand the penalty for infringement of title is 5*l.*; and in Queensland is not to exceed 20*l.*, or, in default, imprisonment not exceeding six months. In Victoria it is expressly indicated by the Amendment Act of 1885 that in respect to the assumption of title and carrying on the business of a chemist and druggist the word "person" includes corporations. The Queensland Act forbids corporations carrying on such a business except under the personal supervision and management of a pharmaceutical chemist, whose name is to appear on all signboards, labels, invoices, or other documents; and any person aiding or abetting such corporation to infringe the Act is liable to the penalties already named. A similar provision prevails in South Australia.



## PHARMACY LAWS IN CANADA.

THE confederation of the British North American provinces, in 1867, found the new Dominion but insufficiently provided with laws relating to the practice of pharmacy. In what was then called Lower Canada, and is now known as Quebec, the regulation of pharmaceutical affairs was in the hands of the College of Physicians and Surgeons, and some qualification was demanded of those who were admitted as chemists and druggists. In Upper Canada (now Ontario) there was an obsolete statute restricting the sale of certain poisons to those who submitted the certificate to a justice, priest, or minister, as to the purpose for which such poisons were required, but no provision was made as to the qualification of the vendor.

The druggists of Ontario soon bestirred themselves, and the Canadian Pharmaceutical Society, then in its infancy, drafted a general Act for the entire Dominion, which was favourably regarded by the late Sir John A. Macdonald, and would likely have become law had not the Administration at that time been temporarily deposed. Provincial legislation was next attempted, and, in 1871, proved successful in Ontario and Quebec. Nova Scotia followed in 1876, Manitoba in 1878, New Brunswick in 1884, and British Columbia in 1891. Prince Edward Island failed last year in obtaining expected legislation, and the North-west territories, in which there are only a few druggists, are still unprovided for.



**ONTARIO.**

THE Act passed in 1871 was amended in 1884, and again in 1889. It originally resembled the Pharmacy Act of Great Britain of 1868, and was, in fact, based on that measure. The amendments embody several new features. The following is a summary of the consolidated enactments :—

Provision is made for the incorporation of an association styled the "Ontario College of Pharmacy," the administration of pharmaceutical affairs being vested in a Council consisting of thirteen members, who hold office for two years, and are elected by thirteen districts, into which the province is divided. District representation is unique, as far as Canadian Acts are concerned, and was only carried into effect in 1891. It yet remains to be seen whether it will prove entirely satisfactory. The franchise is limited to druggists who are members of the College, resident and actually in business in the respective districts, and in good standing on the Registrar's books. Members of the College who are not proprietors are not qualified to vote.

The mode of voting is surrounded with so many legal restrictions, and the law is so ambiguous, that no less than four protests arising out of the first election are still unsettled. The intention is, apparently, that every registered druggist in business as a proprietor may nominate one member for the district in which he resides. After certain formalities, the Registrar sends to each voter in each of the thirteen districts a voting-paper, on which are printed the names of the candidates for the district. This is to be marked, returned, and officially counted. The effect is really that of requiring thirteen separate elections, for each of which the Registrar is the returning officer.

The Council has the power to make provision for and to carry on pharmaceutical education, hold semi-annual examinations, grant certificates of competency, and license the holders thereof from year to year, to prosecute offenders,



and in all respects to carry out the various sections of the Act.

Membership of the College was formerly acquired by the applicant submitting evidence of his being in business prior to the advent of legislation, but, except in special cases, to be afterwards referred to, can now only be secured by apprenticeship and examination.

The prospective apprentice must submit satisfactory evidence from an inspector of public schools that he has passed an examination in arithmetic, mensuration, algebra, geography, and English grammar, the limits in each subject being defined by the Act. Matriculants in arts or medicine in any British or colonial university or college, or holders of other satisfactory qualifications, are exempt from this provision. The apprentice must then be registered as such, and, in pursuance of a contract in writing, must serve four years with a registered druggist, and also attend two courses of lectures on pharmacy, chemistry, materia medica, botany, and reading and dispensing prescriptions, the first at any recognised college, and the other at the Ontario College of Pharmacy. Attendance at the junior course may be counted as part of the term of apprenticeship. On submitting evidence of this service, and of his having attained the age of twenty-one years, and on paying the examination fee of \$10, the apprentice may go up for examination. Should he pass this successfully he will be entitled to a diploma, and to become a registered pharmaceutical chemist and a member of the College.

Provision is made for the admission, without examination, of persons who hold diplomas of the Pharmaceutical Society of Great Britain, or certificates from any pharmaceutical college in the Dominion of Canada, or elsewhere. Such persons must be approved by the Council, and, should this be done, they may, on payment of the then current fee of \$4, be entered as members of the College.

Members of the College may commence business on notifying the Registrar of their intention and paying the specified



annual fee of \$4. In case of discontinuance of business the Registrar must be notified, or liability for the annual fee will be continued. In case of branch stores, a further sum of \$4, each per year must be paid and the managers of such must be members of the College, and also pay an annual fee of \$4.

The name of any member may be erased from the register on the declaration of the Council that, by reason of conviction for an offence against the Pharmacy Act, his name is unfit to be on the register. On a resolution to this effect being submitted to the Lieutenant-Governor, he may direct the erasure of the name.

The privileges enjoyed by members of the College who have duly paid the annual fee may be thus enumerated: The right to style themselves "pharmaceutical chemists," or other similar title; to carry on business in one or more places; to vote at the election of the Council; to compound prescriptions of legally qualified medical practitioners; and to sell certain poisons.

These poisons are enumerated on an attached schedule, which is divided into two parts. Those in the first may not be sold either by wholesale or retail, unless properly labelled with the name of the article, and the word "poison." Retail sales can only be made when the purchaser is known to the vendor, and all packages disposed of in this way must be labelled as aforesaid, and also with the name and address of the proprietor. All such must be registered with full particulars on specified points. The articles on this list comprise:—

Acid, hydrocyanic (prussic); aconite, and compounds thereof; antimony, tartrate of; arsenic, and all the compounds thereof; atropine; carbolic acid; chloral hydrate; cocaine, and its preparations; conia, and the compounds thereof; corrosive sublimate; digitaline; ergot; hemp, Indian; morphia, and its salts and solutions; oil, cedar; strychnine and nux vomica; savin, and preparations of; veratria.

The second part of the poison schedule is a continuation of those articles which can only be sold by qualified pharmacists,



but which are not subject to the conditions attached to those before given, and need not even be labelled "Poison." This list contains:—

Acid, oxalic; belladonna, and the compounds thereof; beans, Calabar; cantharides; chloroform and ether; conium, and the preparations thereof; croton oil and seeds; cyanide of potassium; euphorbium; elaterium; Goulard extract; hyoscyamus, and preparations; hellebore; iodine; opium, with its preparations (including laudanum, &c., but not paregoric); pink-root; podophyllin; potassium iodide; potassium bromide; St. Ignatius' beans; santonine; scammony; stramonium, and preparations; valerian; verdigris; zinc sulphate.

Exceptions are made in the cases of Paris green, London purple, and other arsenical insecticides used by farmers. These can be sold by unregistered persons, provided the articles are put in well-secured packages, and are distinctly labelled "Poison," and all sales are registered in specified form.

The penalties attached to the Act are—for the first offence, \$20 and costs; and, for the second, \$50 and costs; one half to belong to the prosecutor, and the other to be paid to the Registrar for the uses of the College.

In any prosecution under the Act the defendant is required to prove his qualification, and this can only be done by the production of the Registrar's annual certificate. The defendant may also be required to give evidence to show that no unregistered person who actually takes part in selling or dispensing drugs is personally interested in the sales. This clause has by some been interpreted as a negative admission that a qualified man may have an unqualified sleeping partner, and in a recent case a magistrate leaned to this view, the position being taken that the object of the Act is the protection of the public, and if the seller is qualified this end will be accomplished.

The privileges enjoyed by physicians under the Ontario Medical Act are continued to them, and all such persons who desire to engage in the business of pharmaceutical chemists are permitted to do so without passing an examination; but,



in other respects, as in the payment of fees, they are subject to the provisions of the Pharmacy Act. Another portion of the same clause exempts from the operation of the Act the dealings between wholesale and retail chemists, veterinary surgeons, and physicians, or the supplying of medicine from the latter to their patients. Provision is made for the carrying-on of a business by the executors of a deceased druggist, but such privilege is not extended so as to apply to the administration of bankrupt estates.

The Act contains two clauses which possibly more properly belong to legislation of the adulteration class. One of these provides that all compounds named in the British Pharmacopœia shall be prepared according to the formulæ in the latest authorised edition of that work, unless the label distinctly shows that substitution is not intended, and unless the College of Physicians and Surgeons of Ontario select another standard. Another clause declares that any person who wilfully or knowingly sells any article under the pretence that it is a particular drug or medicine, when it is not so, shall be liable to the penalties of the Act. During the twenty years in which these provisions have been in force there has not been any attempt to bring them into effect.

The law in regard to the responsibility of the seller is identical with that of Great Britain, the phraseology being practically the same. No attempt was made for nearly eighteen years to interpret the Act strictly in this respect, but, by a coincidence, the Wheeldon case was decided in England at the same time that a similar action—the Carlisle case—was tried in Ontario. This was followed by another, known as the Ellis case. In both instances the magistrates decided that the unqualified assistants who made the sales of poison were to be deemed the sellers, and, as such, were held legally responsible. Whether the employer is not also individually liable has not, so far, been determined.



## QUEBEC.

THE Pharmacy Act in 1871 was mainly one of incorporation and, though giving the Quebec Association a legal standing, it left the regulation of the practice of pharmacy and of the sale of poisons still in the hands of the College of Physicians. This state of things was happily altered in 1875, when the Association obtained control. The Acts of that and the previous date were amended and consolidated, and all former Acts were repealed. The statute of 1885 was amended in 1890, furnishing the present law.

The "Pharmaceutical Association of the Province of Quebec," incorporated in 1871, was continued by the Act of 1885, and is the governing body. Its affairs are managed by a Council, composed of twelve members, six of whom retire yearly, but are eligible for re-election at the annual general meeting, which is held alternately in the cities of Montreal and Quebec. Voting may be by proxy.

The powers of the Council are restricted to the framing and amendment of by-laws, the election of officers, appointment of trustees and examiners, the filling of vacancies on the Board, and the election of honorary members. The control of the real and personal property of the Association is really vested in a Board of Trustees consisting of not less than six or more than ten members. The appointment of this Board is primarily in the hands of the Council, but when the selection is made it becomes permanent. This Board may not sell or mortgage without the consent of the Council, and must furnish to that body a yearly statement of the affairs of which it has the management.

Previous Acts guaranteed the recognition of the rights of those already in business, and in this way the nucleus of the membership of the Association was provided. All others, except a special class to be hereafter referred to, must pass the several examinations specified before they can become members of the corporate body and assume the full title of licentiate of pharmacy.



The law recognises three classes—certified apprentices, certified clerks, and licentiates of pharmacy. In order to be admitted to the first grade the candidate must pass an examination in the English, French, and Latin languages, and in arithmetic, geography, and history, and pay a fee of \$2, to be continued annually during the term. Medical students may register without passing this examination. In order to become a “certified clerk,” the candidate must produce evidence of three years’ registration as a certified apprentice, and also of having served that period with a licentiate of pharmacy or physician. He must pass the Minor examination in the translation and dispensing of prescriptions, in pharmacy, chemistry, toxicology, posology, and materia medica, and pay the annual fee of \$5.

To be admitted as a “licentiate of pharmacy” the candidate must be a certified clerk, and show evidence of four years’ service with a licentiate of pharmacy or physician, and that he has also attended two courses of lectures on chemistry, two on materia medica, and one on botany, and has passed the Major examination, which includes the same subjects as the Minor, but with more extended limits in toxicology, materia medica, and pharmaceutical chemistry, and with the addition of botany. The annual fee of licentiates is \$10 per annum.

The examinations referred to are held semi-annually, and the Board of Examiners is empowered to grant the respective certificates to those whom they deem qualified. Such qualification entitles the candidate to registration.

Liberty is given to the Board of Examiners, subject to the decision and approbation of the Council, to accept, in lieu of examination, the certificates of medical or pharmaceutical Boards whose educational requirements are equivalent to those specified in the Act.

All fees are due in May of each year, and non-payment may imply erasure from the register; but, in case of such being resorted to, the name may be again inserted on



payment of a specified fine. Licentiates in business are liable for the payment of fees until notice of discontinuance of business has been given to the Registrar.

The regulations governing the actual practice of pharmacy in Quebec are much more stringent than in Ontario. In the latter the privileges of registered persons consist in the right to keep open shop for the sale and compounding of specified poisons and dispensing physicians' prescriptions. The right to assume certain titles is also granted. The same privileges are given under the Quebec Act, with the additional provision that none but licentiates or physicians can sell or attempt to sell any medicinal preparation *containing* any poison, or, indeed, to sell "any drug."

Several novel provisions may be noted. One of these is that which makes it a punishable offence for any licentiate or physician to lend his name to a business of which he is not the *bonâ-fide* owner. It is also required that every drug-store shall be carried on under the name of the real owner. It is unlawful for any licentiate in business to employ any persons other than certified licentiates, clerks, or apprentices; and he is required to send to the Registrar, annually, a list of all his employés. It is also unlawful for a licentiate in business to permit an apprentice to dispense prescriptions or sell poisons, except under the "immediate supervision" of a qualified person.

The responsibility of the seller is in part fixed by the declaration that the proprietor on whose behalf any sale is made by an employé is to be deemed the seller, without prejudice, however, to the liability of any of the three classes of licentiates, clerks, and apprentices.

Branch stores may be operated, but only when under the direct control of a physician or licentiate.

The restrictions on the sale of poisons are particularly stringent.

The schedule contains two items—essential oil of almonds and mercurial salts and their compounds—not given in the Ontario Act, and the first part of the schedule of the latter



contains one article—oil of cedar—and the second part a number of articles not enumerated in the Quebec Act. The schedule is not divided into two parts, and the conditions as to labelling, knowledge of the purchaser, and registration are applicable to all. A special feature is that which makes it unlawful to keep, as well as to sell, any of the poisons enumerated unless labelled with the name of the article, the word "poison," and the address of the owner.

The penalties of the Act consist of fines varying in amount from \$5 to \$50 and costs, which, if not paid, may be levied by seizure of movables, or, in default, by imprisonment for a period not exceeding ninety days, or until fines and costs have been paid. The whole amount of fines recovered becomes the property of the Association.

In cases of prosecution in which qualification is called into question the defendant is required, as in Ontario, to prove his position by producing the Registrar's certificate.

Provision is made for carrying on the business of deceased licentiates, and also of those who are mentally or physically incapacitated, or during the winding-up of the estates of insolvents.

The rights possessed by physicians have been much curtailed. Doctors are not required to pass examination, but, if keeping drug-stores, must pay the fee of licentiates. A bold stroke is that which prevents physicians in the cities of Montreal and Quebec from opening drug-stores unless they cease to practise their profession. This does not apply to those in business when the Act was passed.

A clause making it a punishable offence to sell one article under the pretence that it is another is similar to that in the Ontario Act.

The ordinary business of wholesale druggists and the dispensing of medicines by physicians and veterinary surgeons are, as usual, exempt from the operation of the Act, as is also the wholesale trade in photographic and other chemicals.

There is also an exemption in regard to the sale of Paris green and London purple by general dealers. Registration



of sales is not required, but the merchandise must be enclosed in well-secured packages, labelled with the name of the article, the address of the seller, and the word "poison."

### NOVA SCOTIA.

THE Act of Nova Scotia was passed in 1876, and is still in force. It provided for the incorporation, under the name of the "Nova Scotia Pharmaceutical Society," of all druggists in business in 1876, and all assistants who at that time had been at least seven years engaged in the business.

The Council consists of twelve members, six of whom retire annually at the expiration of a two years' term, but are eligible for re-election. The election takes place at an annual general meeting, the voters being registered members of the Society.

The Council possesses the usual powers as to election of officers, &c.; and, on approval of the Governor in Council, can also prescribe the subjects of examination, but can only appoint three out of five examiners, the others being nominated by the Provincial Government.

Admission to the membership of the Society is by examination, but the Council has discretionary power in regard to the acceptance of the diplomas of other bodies, and may accept such certificates in lieu of examination. Ordinary candidates for membership must show evidence that they have been engaged in the drug business for not less than three years, and during at least one of these have been employed in dispensing. On payment of a fee of \$5 the candidate is admitted for examination, and, on passing and the further payment of \$5, is entitled to receive a diploma and be registered as a member of the Society.

The subjects and limits of the examination are not specified by the Act, but, from an inspection of the approved regulations of the Board, appear to include materia medica, chemistry, pharmacy, and dispensing. There is also what is termed a "general" examination, in which the candidate is tested in



his ability to write a fair hand and spell correctly. He must also have a knowledge of English grammar, the first four rules of arithmetic, vulgar and decimal fractions, and the rudiments of the Latin language. This general examination may be taken at the same time as that on technical subjects, or one or two years in advance, if desired. Satisfactory evidence of qualification in these subjects may be accepted in lieu of examination. Examinations must be held at least once a year.

The annual fee of a member is \$4. Any member failing to make this payment at the time specified forfeits his place on the register, but his name may be replaced on payment of arrears.

The ordinary provision is made restricting persons other than members from keeping open shop, selling or compounding poisons, or assuming any of the titles by which a druggist is known.

The poison schedule does not present any peculiarities, but contains the usual list, with the addition of muriatic and nitric acids. There is not any provision requiring the proper labeling or registration of these articles, the only restriction being that of confining their sale to registered members of the Society. The section is moreover weakened by the exemption of wholesale trading, in marked packages, or as patent medicines.

The Act contains the usual clause throwing the proof of qualification on the defendant in any action.

No attempt is made to bring physicians into line, but, on the contrary, a special section exempts them entirely from the operation of the statute. There is, however, in the constitution of the Society a provision to the effect that physicians who are druggists may, upon payment of the usual fee, become members of the Society without passing examination.



## MANITOBA.

THE first Pharmacy Act in this province was assented to in 1878, and amended in 1883. These measures were repealed in 1889, provision being made for the continuance of "The Pharmaceutical Association of the Province of Manitoba," which was incorporated in the year first mentioned.

The direction of affairs is vested in a Council composed of not more than seven or less than five members, elected for two years by such persons as are members of the Association. The Act does not give any direction as to the manner of election, but in the by-laws it is ordered that at a specified date in every second year every qualified member of the College may send in a nomination of not more than seven names. On the receipt of these by the Registrar he is to send out voting-papers, on which the choice of the voter may be designated, and the paper returned for count.

The Council is endowed with unusually full powers, but in the matter of alienation of real estate is subject to the annual general meeting.

The Manitoba Act is evidently modelled on those of Quebec and Ontario. In the matter of admission of members the former has been pretty closely followed. There are three classes of persons named: "certified apprentices," "certified clerks," and "licentiate pharmaceutical chemists." In order to enter the ranks of the first the candidate must pass a "Preliminary examination," or otherwise satisfy the Council of his proficiency. The Act does not set forth the limits of this examination, nor specify the fees to be paid, as liberty is given to the Council to make by-laws regulating such matters. By reference to these it is seen that the candidate must have attained the age of fourteen years, and must pass an examination equal to that required in obtaining a third-class teacher's certificate in Manitoba. The provincial certificate of having passed this examination may be accepted in lieu of examination, provided evidence is also given in regard to the candi-



date having a "rudimentary knowledge of Latin." These conditions imply higher educational requirements than those demanded in any other part of Canada. The examination fee is \$2, and an annual fee of that amount must be paid during the term of apprenticeship.

In order to become a "certified clerk" the candidate must show proof of having served two years as a certified apprentice, and must pass the Minor examination, which includes the translation and dispensing of prescriptions, pharmacy, chemistry—especially the chemistry of poisons—posology, and *materia medica*. The examination fee is \$5, and the annual fee \$4.

The grade of "licentiate" pharmaceutical chemist is attained by the candidate showing evidence of his having been registered as a certified clerk, and having served four years in a drug-store, besides attending two courses of lectures on chemistry, two on *materia medica*, and one on botany, at some college or school approved by the Association. He must also pass the Major examination, which embraces the same subjects as the Minor, with botany and extended limits in *materia medica* and pharmaceutical chemistry. The examination fee is \$15, with an annual fee of \$10 if the licentiate is in business for himself, but only \$4 if he is employed as an assistant.

There does not appear to be any restriction that a licentiate must have attained his majority. A young man may at fourteen commence his apprenticeship, at sixteen become a certified clerk, and at eighteen enter the rank of licentiate. Another peculiarity noticeable is that it is not directly stated that service must be with a registered licentiate, it being merely required that the time must be spent in a "drug-store."

At the time of the passing of the Act, in 1889, there were, apparently, in the province some clerks and apprentices who had not complied with formalities of previous laws. Those who in 1889 had been for not less than five years in the trade are, on passing a satisfactory examination, per-



mitted to register as certified clerks. All others are required to commence *de novo*.

Section 10 provides for certificated druggists other than those resident in Manitoba, and gives the Registrar liberty to accept such as members of the Association, on condition that they present their certificates or diplomas, and that they were granted by a Pharmaceutical Association or College of Pharmacy empowered by law to issue such certificates, and the body is recognised by the Manitoba Council. Evidence must also be given to the effect that the applicant was in good standing with the body with which he was connected, and was also engaged in the business up to the time of his going to the province. The registration fee is \$15.

A previous section extends similar privileges to non-resident apprentices and clerks, when holding certificated qualifications equal to those of the Manitoba Association. On presentation of the evidence of such qualification and payment of fees the candidate may be registered in the grade to which he belongs.

The privileges of a registered licentiate in good standing are similar to those of a similar class in Ontario and Quebec. He can assume the title of "pharmaceutical chemist" or similar designation, can dispense prescriptions, compound and sell specified poisons, keep open shop in one or more places, provided branch stores are in charge of qualified persons and the additional fees paid, attend annual general meetings, and vote at elections of Council.

These privileges are forfeited by those who are in default of fees, but erasure of the names on the register does not follow, as in some of the other provinces. The annual certificate will be issued to such as pay up their back dues, but in no case can the amount of more than three years' arrears be so collected.

The poison schedule is similar to that of Ontario, except that it does not contain cocaine and preparations, ether, iodine, oil of cedar, pink-root, potass iodide and bromide, valerian, or zinc sulphate. It is divided into two parts, and



the restrictions are precisely identical with those in force in Ontario. None but registered druggists can sell any of the enumerated articles. Those in the first part of the schedule can only be sold to known parties, and must be properly labelled, and the sales registered; those in the second part are not subject to any of these conditions, and it is not stated that they shall even be labelled "poison." Arsenical insecticides are not allowed to be sold by general storekeepers as in Quebec and Ontario.

The penalties for violation of any of the provisions of the Act are—for the first offence, not less than \$20 or more than \$100, and costs; and, for the second, not less than \$50 or exceeding \$200, and costs. Non-payment, or lack of sufficient distress, is met by imprisonment. Half of the fines go to the prosecutor and the balance to the Association.

The usual provision is made requiring the defendant in any action to submit proof of his qualification, and the Act also contains the customary recognition of the authority of the British Pharmacopœia, and requires all compounds to be in accordance with that work. The words "unless the Pharmaceutical Association of this province shall select another standard" imply power which may or may not be real.

A clause against the substitution of one drug for another has been adopted verbatim from the Ontario Act, as has also that provision for the continuance of the business of deceased chemists, such being under the management of qualified persons.

The rights of physicians are not interfered with. Any doctor may register, without examination, as a chemist, and then come under the Act and pay the specified fees.

There is the customary exemption of the application of the Act to sales to druggists, physicians, or veterinary surgeons, and the dispensing of medicines to the patients of the two latter. Wholesale druggists are not exempt, as in some of the other provinces.



## NEW BRUNSWICK.

AN Act was obtained in 1884 by which the "New Brunswick Pharmaceutical Society" was incorporated, the membership consisting of those in business at that time and all assistants who had been for not less than seven years connected with the trade. Regulations were also made in regard to the practice of pharmacy and the sale of poisons. These were amended in 1891, and are now in force.

The Council of the Society consists of twelve members, elected annually by the qualified members present at the general meeting. The powers of the Council are not as fully defined as is customary in enactments of this kind, power to hold real estate or exercise the functions of an educational body being wanting. The Board of Examiners, which consists of five persons, holding office for three years, is appointed in a similar manner to that of the contiguous province of Nova Scotia, three of the members being nominated by the Council of the Society and two by the Governor in Council. Examinations are held not less than once a year.

The Society presents the only Canadian exception in which there has been any relaxation of the regulations governing the admission of members. By the law of 1884 every candidate for examination was required to furnish proof of four years' service, including two in which he was engaged in dispensing prescriptions. The amendments of 1891 only demand three years' service, with half the former experience in dispensing. The age of the candidate is not limited, and the subjects of examination are not named in the Act, as they are left to the discretion of the Council. They are precisely the same as those required in Nova Scotia, and are enumerated in the summary of the law of that province. The "general" examination therein referred to may also be taken one or two years in advance of that on technical subjects. The fee for the entire examination is \$5, and a like sum is payable for a diploma and registration of membership.



A novel provision is that which gives to the candidate who deems himself aggrieved at the decision of the examiners the right to appeal to the Governor in Council, who, upon due cause shown, shall issue an order to the Council to register and grant a diploma to the applicant.

The Council has power to accept, in lieu of examination, "the diploma of any other competent examining body" outside the province. The fee in this case is not specified, but may be \$4 or \$5.

The annual fee of those in business is \$4, but those who obtain the diploma are for the first year thereafter free of this charge. Neglect to pay is followed by forfeiture of membership, but the name of the defaulter may, at the discretion of the Council and on payment of arrears, be again placed on the register.

Registered members are privileged to assume any of the titles by which druggists are known, to keep open shop, to sell certain poisons, and to take part in the annual general meeting.

The usual division of the poison schedule into two parts has been abandoned, as in Quebec. All the articles named are subject to restrictions in regard to labelling, knowledge of purchaser, and registration. The schedule itself, though now much abridged, is more definite and full in other respects, as it leaves no doubt in regard to the vexed question of compounds. The articles enumerated are:—

Acids, carbolic, hydrocyanic, nitric, and oxalic; aconite, and preparations; antimony tartrate; arsenic, and preparation; conium, and preparations; chloral hydrate; cyanide of potass., and other cyanides; chloroform; digitalis, and preparations; ergot, and preparations; ether; essential oils of bitter almonds, cedar, savin, rue, and tansy; Goulard's extract; henbane, and preparations; mercury, all poisonous compounds (including corrosive sublimate, red and white precipitate); Indian hemp, and preparations; morphia salts, and preparations; nux vomica, and preparations; opium, and preparations (except paregoric); strychnia and salts, and preparations; veratria; and all poisonous vegetable alkaloids and their salts.

Wholesale trade in marked packages, patent medicines,



and the transactions between physicians or veterinary surgeons and their patients are exempt from the poison regulations, as also the sale by unregistered persons of Paris green, London purple, and other insecticides to be used by farmers or gardeners for the destruction of insects. Sales of these need not be registered as in other provinces where a similar law exists.

Branch stores may be conducted under the management of registered persons, and whether an unqualified owner may not so operate seems questionable. The reader may form his own conclusions from the following paragraph from section 15 :—

No person shall conduct, manage, or keep open shop . . . in the capacity of agent for other parties except such agent be a member of this Society.

Provision is made for the careful dispensing of medicines, not necessarily prescriptions, by the requirement that all such work must be done by a registered person or under "the direct personal supervision" of such.

Permission is granted to executors to carry on, under qualified management, the estates of deceased chemists.

The Act does not interfere with the privileges of physicians; but, if carrying on business as druggists, they must be subject to the pharmacy law, except as to passing examination.

Defendants in prosecutions must give the usual proof of qualification, as in other provinces.

The penalties of the Act are—for the first offence, \$20 and costs; and, for the second, \$40 and costs. The whole of the fine goes to the Society.



## BRITISH COLUMBIA.

THE druggists of this far Western province had the advantage of the experience of their Eastern brethren, and in 1891 succeeded in passing an Act which, while embracing some of the good features and avoiding the objectionable clauses of other measures, is in several respects quite original. The Quebec law, which is otherwise probably the most perfect of Canadian Pharmacy Acts, has evidently exercised a preponderating influence.

The corporate body is styled the "Pharmaceutical Association of the Province of British Columbia," its first membership being composed of all those in business in the province as druggists at the time of the passing of the Act, and all assistants of four years' experience who were then and there so engaged. Three months from the date of the passing of the Act are allowed for the registration of those then in business.

The affairs of the Association are managed by a Council composed of six members, who for the present have been appointed by the Lieutenant-Governor—three to serve for one year, and three for two years. This system is to be continued, three members retiring annually according to seniority, but being eligible for re-election. The mode of election is to be fixed by by-law.

The powers of the Council are of the usual character, and include the control of real estate (subject to the approval of a meeting of the Association) and appointment of examiners but do not directly refer to education.

The annual general meeting is to be held successively at Victoria, Vancouver, New Westminster, Nanaimo, or such other place as may be selected by the Council. Voting by written proxy is legal at all meetings.

Two classes of persons are recognised by the Act—licentiates of pharmacy and certified apprentices. In order



to be registered in the latter grade the applicant must pay an annual fee of \$2. An examination is implied, but its limits are not specified, nor is the term of apprenticeship stated. These matters can probably be regulated by by-law. Licentiates must pass an examination and be registered. If in business, the annual fee of a licentiate is a sum not exceeding \$10, or if acting in the capacity of a clerk only half that amount.

Especial provision is made for the admission of qualified persons not resident in the province. "Authenticated certificates of examination by authorised Examining Boards of any Pharmaceutical Association" will be accepted, in lieu of examination, by the Board of Examiners. In another part of the Act a similar provision occurs in which qualification is said to consist in the possession of "a diploma from the faculty of some reputable College of Pharmacy, duly authorised by the laws of Great Britain or its dependencies, or the laws of some foreign Government."

A similar clause, which is, perhaps, justified by the state of affairs in a new country, is that which confines the operation of the Act to the limits of an incorporated city or town, or within one mile thereof. As the province becomes settled this provision will, no doubt, be repealed.

The privileges of a registered member of the Association are:—To attend and take part in annual or special meetings, to assume the title of druggist, to keep open shop for retailing, dispensing, or compounding poisons, and to sell certain enumerated poisons. The usual privilege of dispensing prescriptions is not specially conferred.

Members retiring from business must notify the Registrar or remain liable for the annual fee; but, if notification is given, business may be re-commenced on payment of the current fee.

It is declared unlawful for a registered druggist to employ an unqualified clerk or unregistered apprentice, but the Act does not specify that a list of such shall be annually submitted, as in Quebec.



Branch stores may be carried on, but must be in charge of licentiates.

The poison schedule is divided into two parts, as in Ontario. Part 1 contains—

Aconite, and preparations; arsenic, and preparations; belladonna, and preparations; cantharides; corrosive sublimate; cyanide of potassium and all metallic cyanides; ergot, and preparations; essential oil of almonds, unless deprived of prussic acid; euphorbium; opium, and preparations (not including paregoric), and syrup of poppies; prussic acid; savin and its oil; St. Ignatius' beans; strychnine, and all poisonous vegetable alkaloids and their salts; tartar emetic.

The second part includes—

Lead acetate; oxalic acid; Calabar beans; carbolic acid; chloral hydrate; chloroform and ether; croton seeds and oil; elaterium; Goulard's extract; hellebore; henbane, and preparations; iodine; phosphorus; red and white precipitate; verdigris; and zinc sulphate.

The sale of all these is confined to registered chemists and druggists, those in the first part being subject to the usual conditions as to labelling, knowledge of purchaser, and registration. Those in the second part must also be labelled with the name of the article, the address of the proprietor, and the word "poison." The regulation in this respect is peculiar to the British Columbian Act, as no other Canadian statute in which the schedule is divided requires the labelling of such poisons.

There are the usual provisions for proof of qualification to be given by the defendant in any prosecution, and also for the carrying-on of the business of deceased druggists, and for the exemption of transactions between druggists, physicians, and veterinary surgeons, and the patients of the two latter, and the ordinary course of dealing in drugs.

Physicians are entirely exempt from the operation of the Act, and may carry on business as druggists without examination or registration.

The general penalties for violation of the Act are \$20 and costs for the first offence, and \$50 and costs for the second. There is not any penal clause. A special fine of not less than



\$25 or more than \$100 is specified in cases of non-registration after the three months allowed for that purpose. The same penalty is also attached to convictions for uttering a false certificate, or the assumption of a title implying qualification.

There are two provisions not to be found in any other Canadian laws. One of these settles the much-discussed question of the ownership of prescriptions by declaring that a person presenting a prescription to be filled shall be entitled to have it returned to him. The other makes it lawful for the Lieutenant-Governor to appoint a public analyst, who must be a member of the Association.



### CAPE COLONY PHARMACY ACT.

AN Act regulating medicine and pharmacy in Cape Colony was passed by the Cape Colony Legislature in 1891. It provides for the registration and control of medical practitioners, apothecaries, dentists, chemists and druggists, midwives, and nurses practising within the colony, and is described as the "Medical and Pharmacy Act, 1891." Before this Act came into operation licences were granted to chemists and druggists by the Medical Board at Cape Town, either on production of the British certificate, or on the candidate answering within three hours, in the presence of a magistrate, a paper of questions set by the Board and sent by post. The questions were not wide of range, but required a moderate knowledge of chemistry and a familiar acquaintance with the Pharmacopœia.

The new Act constituted a "Colonial Medical Council" and a "Colonial Pharmacy Board," the former to be concerned with so much of the Act as deals with medical practitioners and dentists, and to consist of seven medical practitioners and one dentist. Three medical practitioners and the dentist are nominated by the Governor, and the others are elected by the medical practitioners of the colony. The Pharmacy Board, which controls apothecaries and chemists and druggists, consists of one delegate from the Medical Council, two chemists and druggists nominated by the Governor, and three elected by the chemists and druggists of the colony.

The Colonial Secretary is required to keep separate registers of the several classes named, but there is no provision for



publication of these. All chemists and druggists licensed when the Act was passed were entitled to appear on the register, and for the future "any person who has attained the age of twenty-one years, and has been duly indentured and [has] served as an apprentice for a period of not less than four years to any regularly licensed apothecary or chemist and druggist in this colony or elsewhere, or who can produce satisfactory proof that he has been practically engaged in the compounding and dispensing of medicines or medical prescription sunder a duly licensed chemist and druggist for a period of not less than four years then last past, may obtain a licence to practise as a chemist and druggist, on passing an examination to the satisfaction of the Board in any subjects fixed by the Board with the approval of the Governor." The examination and registration fees are not to exceed 5*l*. The certificate of the Pharmaceutical Society of Great Britain, or that of any College, Society, or Board recognised by the Board, entitles the holder to a licence to practise without further examination if otherwise complying with the provisions of the Act.

To wilfully and falsely pretend to be, or to take or use the name or title of, a chemist and druggist renders an offender liable to a penalty not exceeding 100*l*., or, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding six months. The same tremendous penalty is incurred by any unlicensed person who shall "practise as a chemist and druggist"; and to prevent the abuse of the name-lending system it is expressly provided that it shall not be a defence for the accused to prove that he is in the employ of or agent for a duly licensed chemist and druggist, unless he is under the actual personal supervision and control of such duly licensed person.

Chemists and druggists have to pay an annual licence-fee, and medical practitioners who will pay the same are entitled to compound and dispense medicines prescribed by themselves; but it would seem that they are not entitled to practise generally as chemists and druggists.



Another stiff penalty for an offence too vaguely defined is inserted in section 44, which deals with the storage of poisons. Any medical practitioner, or chemist and druggist, who shall suffer poisons to be kept "without due care," or shall sell or keep for sale by himself, or any apprentice, servant, or agent "any medicines or drugs of bad quality," is liable to a penalty of 20*l.*, or, in default of payment, to imprisonment for a period not to exceed three months, and may have his licence cancelled if the Governor shall think fit to do so.

The poisons schedule is in two divisions, and corresponds exactly with the two parts of the poisons schedule in the British Act, except that carbolic acid appears in division 2 of the Cape Act. Additions to the schedule may be made by either the Council or the Board, but must be approved by the Governor. Medical practitioners and chemists and druggists are to label all the packages containing poison in their possession with the word "poison," and they must exercise due care and caution in the custody of the same. Another section provides that "poisons within the meaning of this Act shall not be sold by any person other than a duly licensed apothecary or chemist and druggist, *or the indentured apprentice or bonâ-fide paid assistant of such apothecary or chemist and druggist.*" Importers and general dealers may get certificates, under certain circumstances, entitling them to deal in poisons, with some restrictions. These vendors are also subject to penalties if they fail to execute due care and caution. The conditions under which poisons must be sold are similar to those prescribed by the Pharmacy Act of Great Britain, but they are more voluminously expressed in the Cape Act. In view of a difficulty which has occurred in this country, it is provided that the poisons-book shall be submitted forthwith upon demand for the inspection of the secretary of the Board or of any person authorised by him in writing under his hand. For refusal a fine not exceeding 20*l.* may be imposed. False statements by purchasers of poisons are to be similarly punished. The poisons provisions do not apply to—



(a) Any poison in homœopathic medicine, unless in crude state, mother-tincture, or of greater strength than third decimal potency.

(b) Patent or Dutch medicines.

(c) Photographic materials for the purpose of photography.

(d) Medicines dispensed by veterinary surgeons or farriers for animals under their treatment.

(e) Fly-poison papers, when duly marked as such.

(f) Any poison supplied by the chairman or secretary of any poisoning club to any member of a poisoning club for the purpose of destroying wild animals or vermin.

Conditions as to labelling and registering, however, apply.

The Act limits the right of holding public appointments to licensed persons, and no one can recover for medicine prescribed or supplied unless he is registered under the Act.



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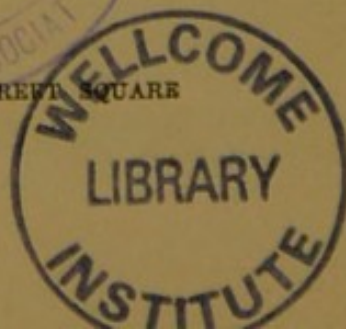


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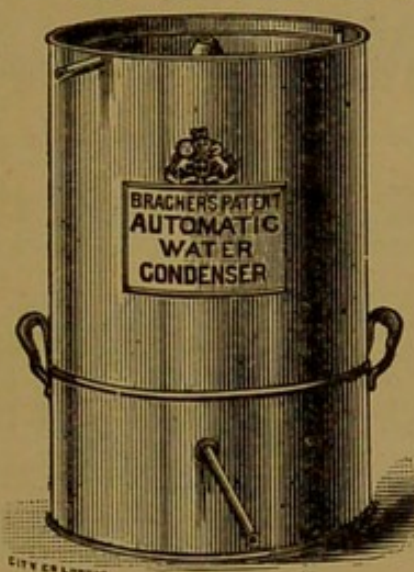
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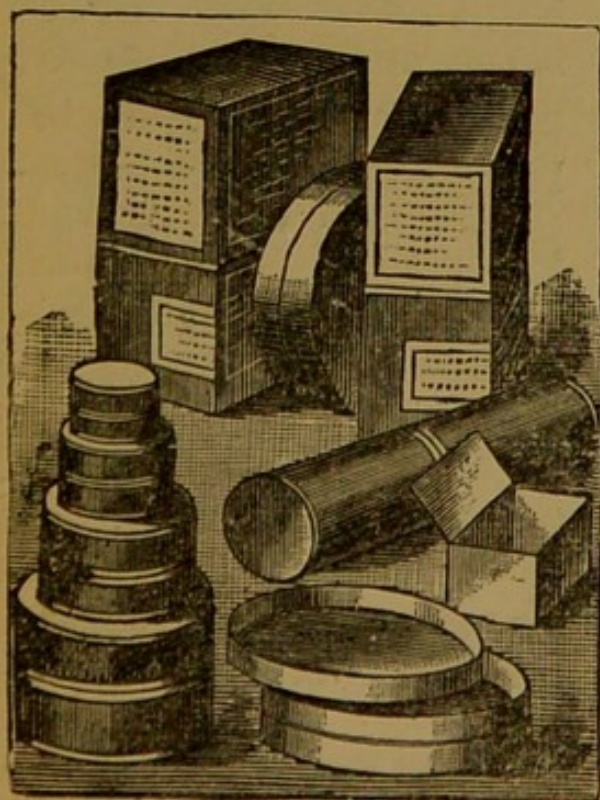
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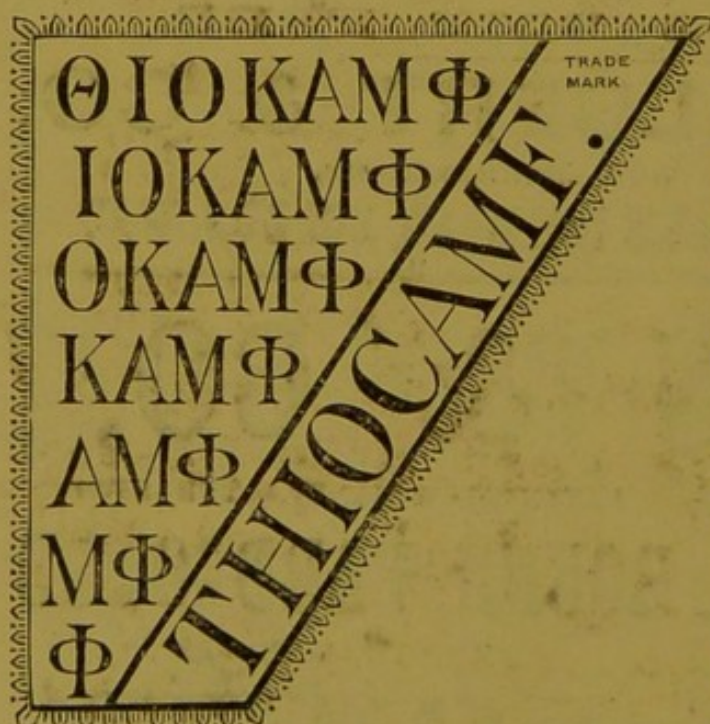
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