

Guthrie (C. B.)

Report upon legal restrictions
for the
Control of the Sale of poisons
and
Dangerous drugs



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REPORT

UPON LEGAL RESTRICTIONS

FOR THE

CONTROL OF THE SALE OF POISONS

AND

DANGEROUS DRUGS.

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The legal control of the sales of Poisons and dangerous drugs is a question not new even in purely scientific or deliberative bodies like the present—while it has been often the subject of discussion in judicial and legislative assemblies, with various results and conclusions.

“A careful examination of reported cases in Europe, as well as in our own country, impressed me very deeply with the almost criminal neglect of our law makers, in leaving the sale of all poisons, but more particularly of that deadly one, Arsenic, so utterly without safeguard.” This is the language of a medical gentleman in the American Medical Monthly, and expresses the feelings of all who have given the matter any thought or examination; and certainly that of the committee to whom this subject was referred at the last meeting of this convention.

Various propositions have from time to time been brought forward, some looking entirely to the integrity and intelligence of the vendor of such drugs, as a safeguard to the lives and health of community, others interposing stringent regulations bearing alike upon seller and purchaser, with a view to fix the responsibility both of sale and use of the article at the same time—all confessing the need of some protection, and seeking a remedy for an acknowledged evil.

But to acknowledge the existing evil and our wants in this respect has been a much easier task than to point out the effectual remedy.

It seems to lie either in the efficient and thorough education of such as deal in drugs of this kind, so that no mistakes may occur, and in their unimpeachable integrity and honesty, so that no temptation shall lead them astray, or else in such legal restrictions as shall afford a means of fixing responsibility somewhere, with adequate and recognized penalties. Which of these two we shall be obliged to look to is apparent to all, and yet we shall find neither the awakened public opinion to either demand or sustain any *very stringent enactments* upon this subject in

the most enlightened of our communities. The right "to buy and sell, and get gain" is the one great underlying principle of action of our people and most others, too, we think, and though we in various ways and in diverse manner recognize the right to restrict this rule of traffic, yet when the reason for such restriction is not plain and tangible, we are apt to complain of every such infringement.

We *restrict* or guard the sale of gunpowder in all the States, and make, almost every year, an effort, usually a failure, to be sure, to do something of the sort with whiskey and its adjuvants, especially the drugged or adulterated liquors, and almost every city restrains and prescribes the sale of vegetables and swill milk.

Therefore, to say that any State may not enact such laws as may be deemed proper upon a subject bearing directly upon the lives of its people, is simply absurd, and yet, many apothecaries look upon any such Legislation with great disfavor, not only in this country but in England as well.

Says a report made to that large and growing body of Pharmacians, the American Pharmaceutical Association at their annual meeting in Washington in 1858: "This subject seems to be exceedingly distasteful to the American dispenser to be dictated to, when and in what manner he shall sell poisons," and a recent attempt at the passage of a law of this kind in England met with such determined opposition as to lead its advocates to withdraw it, though we believe in this case it was obnoxious to serious charges of inefficiency in many particulars. Why we should object to legal restrictions upon the sale of such articles as are now in daily use for the worst of purposes; besides being the cause of many sad mistakes by being kept by *careless* and *inexperienced persons* in *unsafe* and *improper places*, among groceries and other articles of daily use and consumption, is more than your committee are able to answer. If all our apothecaries were educated Pharmacians and honest men beside, we should be able to see the reason for such objections; but no one will claim this much for them, and especially for such as lay no claim to any professional standing, and who keep and sell *arsenic* and *strychnine* from the same shelf or drawer as supcarb. soda, cream of tartar and other articles used in our culinary departments, and therefore they should not complain if the people ask some protection from the manifest danger of such indiscriminate barter and trade. Beside this, a great many country stores and village corner groceries keep and sell many articles included in the list of poisons, and no doubt there are to be found in all our cities, grocery stores where the same thing is done.

When Congress passed a law a few years since, subjecting all drugs and chemicals from a foreign port to inspection by an examiner appointed by government for that purpose, we had a great outcry about the rights of trade and commerce, but now all acquiesce in such legal restrictions, and most approve of the law as right and proper.

In every State in the Union there are laws similar in character, as to some branch of trade or business, while almost every country in the old world has special and often very stringent enactments upon this very subject.

We do not regard it as at all needful to enter into any argument to prove the necessity of such a law, nor to array the statistics, easily obtained, to show the number of deaths yearly for the want, in part at least, of such legal provisions, and resulting from the criminal or careless use of such articles as are usually called poisons. If there is but *one*, and that *one* might have been prevented, the argument is complete and the array of statistics ample for our purpose.

Life is not so cheap nor its tenure so certain, that we can afford to allow the vicious and revengeful such ready and potent means for its destruction, or leave in the hands of the careless or ignorant such dangerous implements of death. If there is any one who wishes to know more of the details in regard to these cases of poisoning, we refer them to the daily papers for any continuous week, and they will be more than satisfied, as they see the oft recurring heading of "Poisoned."

In endeavoring to draw up such a form of enactment as shall meet the wants of the case, we find great difficulty—first, in specifying just what should be embraced in a list of "poisons," and secondly, to guard their sale sufficiently without materially interfering with the legitimate trade of the apothecary.

In seeking for light and guidance, we have referred to all the laws upon this subject that have been within our reach.

The most severe and arbitrary we find to exist in Europe, especially in France and Prussia. In the first named country, the list of such articles is very large, and embraces every article that could probably cause death in the hands of the criminal or careless dealer or buyer. The shop of the vendor is subject to regular and irregular visitations and close inspection, and all such articles are registered and reported once in so long a time, and kept in peculiar shaped and colored bottles—with various safeguards beside.

In the latter, the apothecary is obliged to subscribe to an oath in which he specifically agrees to abide by the laws in general, and such as relate to his business in particular, and he is subject to the same visitation and inspection as in France, and in both countries *no one* can open an apothecary shop without a rigid examination into their qualifications, integrity and character, and the procurement of a license granted upon such examination. In Ireland the law is equally rigid, but not so strictly enforced, while in England and Scotland it is more lax and more neglected.

In many of the States of this country we have laws regulating the sale of poisons; in none of them, as we are aware, except in New York, is there any attempt to regulate the *general business of an apothecary*, and his statute in New York is too imperfect to be of any *practical* value in this respect. In all the southern States, laws exist with regard to the sale of such drugs to slaves, and in many of them minors are included, while in many of the northern States the prohibition is in regard to minors and persons of unsound mind. In some of the States, as in Ohio, there is a regular code embracing most that is required, though making no effort to restrict the number of such as shall sell poisons, by requirements touching their qualifications.

In almost all there is a difference made, as between the regular physi-

cian and his prescription, and an ordinary call for these articles, and in no case is there any specification as to who shall be considered a regular physician, whose prescription is to be entitled to respect.

Many of the laws upon this subject have been too prolix, covering half the materia medica and everything which *might* prove dangerous in the hands of the vicious or ignorant. Others with a view to embrace only the most common and frequently sold articles, specify only two or three. The one fails because it seeks to do too much, and the other fails also because it attempts too little. There are some articles, such as *arsenic*, that are known to the most ignorant as a deadly and sure poison because of its frequent use in the destruction of vermin, while there are others equally sure and much more rapid in their effect, as *nicotine*, that are scarcely recognized except by the physician and the dispensing apothecary. There are others holding an intermediate position, and need to be guarded with less care than the first, but more than the second.

To meet all these points will be found no easy task. In Europe, as has been remarked, the laws are much more stringent than we can pass, or enforce if passed; for instance, we cannot expect to regulate the general business of the apothecary so far as to compel him to an examination before entering upon such a business.

What we need, and what we think we can have, is a law that can be made nearly uniform in all the States. It must, to be effectual, embody two things,—first, a clear specification of who may and who may not sell poisons, in small quantities, and thus limit the number of places where such articles can be had; and secondly, what articles shall be deemed poisons, and under what restrictions they may be sold.

Your committee recommend, therefore, that none but practising physicians and apothecaries, who shall hold either a diploma from a college of Pharmacy, or the certificate of the American Pharmaceutical Association; or the certificate of two or more respectable practitioners of medicine of the town where they reside, as to their qualifications as apothecaries and their integrity as men; shall be allowed to sell in quantities less than such as are specified in the list of articles known as *poisons*.

Also, that a record of all such articles, when sold to strangers or in small quantities, shall be kept, including the name of the purchaser, and sex, and the article sold. This must embrace all such sales, whether sold on prescription or not, except when the physician is present himself.

We append the laws that already exist, so far as we have them at hand, also a list of such poisons and dangerous drugs as we think should be embraced in such legal restraints and a form of law.

For this list, and many valuable suggestions in regard to this law, we are in part indebted to some of the oldest and most respectable apothecaries of New York City, among whom, we name with pleasure, Jno. Milhau & Son, Jno. Meakim, Wm. Hegeman and others.

Maine and New Hampshire agree in requiring the following poisonous substances, viz., arsenic, corrosive sublimate, nux vomica, strychnine, and prussic acid to be sold (except upon prescription of a physician) only

under the following restrictions: 1st. The bottle or package must be furnished with a label bearing the name of the article, and the word "Poison" distinctly upon it. 2d. The name of the purchaser, together with the quantity bought, must be entered upon a register kept for that purpose. 3d. None of these articles may be placed on, or within 200 rods of, a highway, for the purpose of killing noxious animals. The penalty in the former State may be \$50, in the latter \$100.

Michigan, Wisconsin, Oregon, Iowa, and Missouri also require labels for substances usually called poisonous, and the last-named State provides that they shall not be sold to minors or slaves. The penalty in the first three States may be \$100.

The statutes of Massachusetts provide that any person selling arsenic, strychnine, corrosive sublimate, or prussic acid, except upon the written prescription of a physician, shall keep a record of, first, the date; second, the article sold; third, its amount; and fourth, the name of the purchaser. Penalty not more than \$50. Any purchaser giving a fictitious name is liable to a fine not exceeding \$50.

But the Ohio code is more complete on this subject than that of any other State in the Union.

It provides that no person shall sell or give away any poisonous substance, save upon the prescription of a physician, except under the following restrictions:

I. He shall register in a book kept for the purpose:

1st. The name, sex and color of the purchaser.

2d. The quantity purchased.

3d. The purpose to which the purchaser intends applying it.

4th. The day and date on which the purchase was made.

5th. The name and residence of the person for whom it is purchased.

II. The bottle or package shall be labeled "Poison."

III. Such articles shall not be sold to minors.

IV. Further, with regard to arsenic alone, that no quantity of this substance, less than one pound, shall be sold, except upon prescription of a physician, until it shall have been mixed with soot or indigo, in the proportion of an ounce of soot or half an ounce of indigo to an ounce of arsenic.

The New York law requires, that persons who sell poisons shall register the names and residences of parties purchasing, unless in case of a physician's prescriptions. The labeling must be attended to properly. The poisons here referred to are arsenic and its preparations, oxalic acid, corrosive sublimate, chloroform, sugar of lead, tartar emetic, opium and its preparations, oil of bitter almonds, the cyanides, deadly night shade, henbane and poison hemlock.

The sale of the following poisons by retail is prohibited unless by the written order of a regularly authorized practising physician, whose name and residence shall be attached to such order: prussic acid, aconite and its preparations, atropia and its salts, cantharides, croton oil, datura and its salts, delphinia and its salts, digitalis and its preparations, nux vomica and its preparations, elaterium, ergot and its preparations, veratria and its salts, cannabis indica and its preparations. A fine of \$100 may be recovered for a violation of these restrictions.

The Pennsylvania law directs that no apothecary or druggist or other person shall retail any morphia, strychnine, arsenic, prussic acid, or corrosive sublimate, except upon prescription of a physician or on the personal application of some respectable inhabitant of the place, of full age. The word *poison* shall be legibly marked on the bottle or package, and when sold otherwise than by prescription of a physician, the name and residence of the person to whom sold, the quantity sold, and the date of the sale, shall be entered on a register kept for the purpose. A person violating these provisions shall be guilty of misdemeanor and fined, not exceeding \$50.

C. B. GUTHRIE, M. D.,
Chairman of Committee.

APPENDIX.

FORM OF LAW AND LIST OF POISONS AND DANGEROUS DRUGS.

SEC. 1. No person shall be allowed to sell or dispense any of the following articles named in this act, and known as "*Poisons or dangerous Drugs*," except they shall hold the diploma or certificate of membership of a College of Pharmacy, or the certificate of the American Pharmaceutical Association, or the certificate of two or more Physicians in regular or active practice in the town where they reside and propose to do business, certifying to their acquirements as apothecaries and integrity as men, which diploma or certificate shall be exhibited in a conspicuous place in the their stores. This act shall not be considered as applying to practitioners of medicine in selling or dispensing to their patients.

SEC. 2. The following named articles shall be deemed poisons, and the persons authorized to sell or dispense the same shall keep a Book of Registration in which the name of the article and the quantity sold, and the name and sex of the purchaser shall be duly entered, and it shall not be lawful to sell or dispense the same to *minors* or persons of unsound mind.

LIST OF POISONS.

Atropia and its Salts.
 Aconite and its preparations.
 Arsenic.
 Corrosive Sublimate.
 Cyanide of Silver, Mercury, Zinc and Potassium.
 Cannabis Indica and its preparations
 Cocculus Indicus and its preparations.
 Cantharides.
 Deadly Night Shade.
 Digitalis.
 Datura.
 Delphinia and its Salts.
 Ergot and its preparations.
 Gelseminum and its preparations.
 Henbane.
 Nux Vomica.
 Nicotine.
 Opium and its Salts.
 Essential Oil of Bitter Almonds.
 " Rue.
 " Tanzy.
 " Savin.
 Prussic Acid.
 Picrotoxin.
 Poison Hemlock.
 Strychnine.
 St. Ignatius Bean.
 Tartar Emetic in more than six grains.
 Veratria.

SEC. 3. This act shall not be taken to apply to such as are engaged in the manufacture, or wholesaling of any of the above articles, except when sold in small quantities to others beside the trade.

SEC. 4. All such articles shall be clearly and distinctly labeled with the name of each article, and such as are commonly used for the destruction of vermic, shall also be labeled Poison before leaving the hands of the apothecary.

SEC. 5. All persons offending against the provisions of this law, shall be subject to a penalty of \$ for each and every offence.

