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153 Broadway

PROCEEDINGS

OF THE

Massachusetts College of Pharmacy,

CONTAINING THE

REPORT OF THE COMMITTEE

ON THE

“Law for the sale of Spirituous Liquors as applied to Apothecaries,”

AND THE

PETITION

TO THE

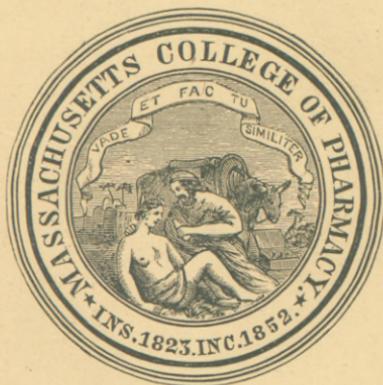
SENATE AND HOUSE OF REPRESENTATIVES OF MASSACHUSETTS,

TOGETHER WITH THE

MEMORIAL, EVIDENCE AND ARGUMENT

PRESENTED TO THE

“JOINT COMMITTEE ON LICENSES OF THE SENATE AND HOUSE.”



BOSTON :

OFFICE OF BOSTON MEDICAL AND SURGICAL JOURNAL.

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REPORT OF THE COMMITTEE

Law for the sale of Habitual Druggists as
applied to Apothecaries

PETITION

SENATE AND HOUSE OF REPRESENTATIVES OF MASSACHUSETTS

MEMORIAL EVIDENCE AND ARGUMENT



NO. 20370X

OFFICE OF THE COMMISSIONER OF THE COMMONWEALTH OF MASSACHUSETTS

State House, Boston, Mass.

1887

REPORT.

*To the Trustees of the
Massachusetts College of Pharmacy.*

THE Committee appointed by you to consider the subject of the "Law for the sale of Spirituous Liquors as applied to Apothecaries," beg leave to report as follows:—

A special meeting of the Trustees was held February 20th, called by order of the President, at the request of the requisite number of the members of the College agreeably to the By-laws. At this meeting it was stated that the members of the Board had been requested to send a petition to the Senate and House of Representatives in aid of the petitioners for a License Law in the place of the present Prohibitory Law. In order to bring the subject properly before the board, a resolution was offered that a petition be framed and presented as requested. This was debated at length, and every member present expressed his views on the subject; and it was decided that as a College we would not sign a petition for or against a license law, but if necessary, would petition on our own account; and this Committee was appointed to carry out the views as expressed in the discussion. The Committee had a number of meetings, and they were fully convinced that if we presented no petition of our own we should necessarily be summoned by those in favor of a License Law, as it was very apparent that the present law was severe in many of its requirements, as regards Apothecaries; and

also if we did not make a distinct movement, we might be placed in a false position in case the License Law failed to be enacted. Your Committee therefore drew up the following

PETITION.

To the Honorable the Senate and House of Representatives of Massachusetts in General Court assembled :

The undersigned, officers and trustees of the Massachusetts College of Pharmacy, an institution acting under a charter from the State of Massachusetts for the purpose of promoting the best interests of legitimate pharmacy, and all of us actively engaged as dispensing apothecaries, respectfully represent, that alcohol, wines and other liquors are official articles in the pharmacopœias of all countries, and without which no apothecary could pursue his business ; that the use and sale of these articles in the composition of medicine, and for medicinal purposes, constitute a large item in our business ; that it is not our practice nor desire in any way to sell them to be used for purposes of mere luxury, or to allow them to be drank on the premises, but on the contrary we desire that the business of apothecaries should be so conducted as not to confound it with that of common retailers of drink ; that as a profession, we ask only to be protected as legitimate pharmacutists in the transaction of our necessary and appropriate business ; that under the present statutes it is impossible for us to conduct our business and perform our duties to the medical profession and the sick.

Now, therefore, in view of the above statement of facts, we most respectfully petition your Honorable bodies to alter the present law in such a way that apothecaries may be able to conduct their business in a legal manner.

THOMAS HOLLIS, *President.*

SAMUEL M. COLCORD, *Vice President.*

JAMES S. MELVIN, *Corresponding Secretary.*

HENRY W. LINCOLN, *Recording Secretary.*

ASHEL BOYDEN, *Treasurer.*

GEORGE D. RICKER, *Auditor.*

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ROBERT R. KENT,
ISAAC T. CAMPBELL,

ELIJAH SMALLEY,
JAMES A. GLEESON,

JOHN BUTTERWORTH,

GEORGE F. H. MARKOE, }

Trustees.

This petition was offered in the House of Representatives, and referred to the same Committee to whom had been referred the petition of those in favor of a License Law. At the close of the hearing before the Committee of those in favor and of those against the passage of a License Law, and before the arguments had been made by the counsels of either side, the Committee gave a special hearing to our petition, and by common consent the counsel on both sides were allowed to join in the examination of our case, that all the points could be fully shown and examined. We were thus exposed to an unusual cross-examination of our witnesses, and by these means many important facts were elicited and the working of the law fully set forth. After the reading of the petition by Mr. Lincoln, the Secretary of the College, Mr. Colcord read a Memorial which he had prepared, and offered it as Chairman of the Board of Trustees, as follows:

MEMORIAL.

THIS Memorial is designed to represent the Apothecaries' view of this great question of the use and sale of wines and spirits for medicinal, chemical, mechanical and manufacturing purposes; it is also intended to embrace the substance of any testimony we may be called upon to give in aid of the petition of the Massachusetts College of Pharmacy.

It is a very significant fact, that in the discussion of this question of a license law, which has been the main question before your committee for so long a time, the Apothecary, who knows the most about it, has had no voice in it. Neither the petitioners for a license law nor its opponents have called upon the stand one single witness, whose business it is, and always must be, to dispense wines and spirits for medicinal and mechanical purposes. All must agree that for these purposes they always have been and always must be used, and that the Apothecary always has been and always must be the most suitable person to supply this demand. In fact, pharmacy cannot be separated from spirituous influences and spirituous trade, however much we may legislate upon the subject.

But the relation of the druggist and apothecary to the subject is entirely separate and distinct from the general question of license or no license.

After a full statement of our position is made, we expect no opposition from either friends or opponents of the license law, as all that we ask is that permission be given, by alteration of the present law, to the legitimate Apothecary, to transact legally his business *as a pharmacist*. Still we are willing as individuals to be examined upon the general issue that has been before you, preferring, however, to testify only upon those points pertinent to our own petition.

This petition comes from a COLLEGE OF PHARMACY. Now what is a College of Pharmacy? It is an institution formed for promoting a high grade of qualifications in our apothecaries, and for educating our assistants to perform properly the duties of a Pharmacist. In the United States, such institutions are established in Boston, New York, Philadelphia, Baltimore, Cincinnati, St. Louis, and in other cities. One of these colleges publishes a bi-monthly journal of about one hundred pages, believed to be equal in interest and value to any journal of the kind in the world. It also has a School of Pharmacy, with a class of one hundred to one hundred and twenty-five students, and annually confers the degree of Graduate in Pharmacy upon a large number of students.

Delegates from all these colleges meet annually, and have formed an association of the leading pharmacists throughout the country, now numbering about seven hundred members, their annual published proceedings making a volume of three to five hundred pages. A full set of these proceedings may be found in the Mass. State Library, the Boston Public Library, and the Library of Harvard University, furnished to these Libraries by the Mass. College of Pharmacy, and are considered of great interest and value. In the last volume of these proceedings, recently published, will be found a report of some thirty to forty pages on this very alcohol question, with reference to the Internal Revenue Law of the United States, containing the views of various great centres in this country, and thought to represent the complex views on this complex question, as understood by these Colleges of Pharmacy through their representative men. This information was furnished to the United States Government, at the solicitation of, and in conference with Hon. David A. Welles.

The petition before you states explicitly that no one can practise the profession of Pharmacy legally in Massachusetts, and requests that the present law may be so modified as to enable it to be done.

The present law gives the power to druggists only to sell

pure alcohol, to druggists, apothecaries and physicians *only*. No wines or other spirits are allowed to be sold by them.

Now what is pure alcohol? If the law means, as the apothecary would understand it, absolute alcohol, free from Fusel Oil and other impurities, it would cost \$1.75 per pound, or about \$12 to \$14.00 per gallon. If it means common commercial alcohol, the Government tax upon which is \$4.00 per gallon, it can be bought for less than \$3.00 per gallon, and in bond for about 50 cents per gallon.

And this article, which is but one of the class of spirits and wines that we are daily and hourly using and dispensing, although it ramifies so extensively through every department of practical pharmacy, Druggists are not permitted to sell, either mixed or unmixed, except to Druggists, Apothecaries or Physicians. And yet of *pure* alcohol there is not probably fifty pounds used or sold in the whole State of Massachusetts in a year, and more than half the Apothecaries have never seen it.

Nearly all the wines and spirits in common use are placed in our pharmacopœias, dispensatories and text books, as remedies for disease. But aside from their unmixed use as medicines, they are the solvents and vehicles, directly or indirectly, of almost every form of pharmaceutical preparation that we are daily dispensing. In fact, alcohol in its various forms is the leading article in all drug establishments; and in the best regulated, *temperance* dispensing stores, if you please, forms at least ten per cent of their whole business. It is the great exhaustive or solvent power for extracting the medicinal virtues of nearly all vegetable substances. With it not only our tinctures, fluid extracts, essences, syrups, and vinous preparations are made, but all the alkaloids, and proximate vegetable principles, are extracted; such as morphia, strychnia, and podophyllin. The ingredients of which we compound pills are made with it, as well as those that compose cough mixtures, although these mixtures contain little or no alcohol.

But we pass on from the consideration of those articles where alcohol has performed its uses and passed away, and consider those articles and uses which in their various forms are known, seen and active; when the demand for dispensing them is imperative; when wines and spirits are demanded for their own specific action, under the guidance of the best medical intelligence.

The Apothecary always feels bound to dispense a prescription, when he can make out clearly the intent of the prescriber. He has no right to say that it is, or is not, the proper medicine for the patient, unless he *knows* it to be a fatal or

dangerous dose. We therefore look upon it as our imperative duty to dispense this class of remedies upon physicians' prescriptions.

But there are other calls of even greater necessity than these, where time for reflection and cavil might prove fatal; as when an accident occurs in the street, and the wounded man is brought into the store. The physician is summoned, and finds the pulse so low that there is danger of collapse, unless some diffusive stimulant is immediately administered. He at once asks for brandy and spirit of ammonia. But under this law the apothecary has no right to furnish it, nor even to give it away. Suppose the cholera to be raging and a like case of that complaint occurs; or suppose when that epidemic exists, a traveller, with but slight symptoms of that disease, calls for a vial of brandy, either mixed or unmixed; are we to refuse it, or are we to send him to a physician to get a prescription which costs him \$3.00, and then refer him to a State agent, or a town agent, to get it put up, well knowing that the said agent has neither the article nor the qualification necessary to dispense it? And these urgent calls are not cases that occur to an apothecary once in a life time; they are the rule, not the exception. Cases are very rare where calls are made upon a regular apothecary for wines and spirits as a beverage. They not only do not seek such trade, but they do not supply it.

A very large demand is made upon druggists by artists, chemists, and manufacturers, especially for alcohol. The multifarious uses to which this article is applied are truly astonishing to a person not having knowledge upon the subject.

There is scarcely a person living in a civilized country who does not use, handle, or see, either directly or indirectly, this article, in some form at least fifty times in a day. You awake in the morning; the first thing you see is a place where alcohol has made its mark, or removed a mark. Is it your bedstead? the grain of that wood is filled with shellac, by means of alcohol. Is it iron instead of wood? the lacquer, paint or varnish upon it is made with alcohol. Do you look upon the painted wood work of your room, with no appearance of ever having a particle of sap or a knot in it? alcohol and shellac have been there, and covered that sap and those knots to keep the resin and sap from striking through the paint. Do you rise to perform your toilette? that pellucid cake of soap, with which you wash, is made with alcohol. Do you dress your hair? that hair preparation you are using is made with alcohol; the French polish of your hair-brush is imparted by alcohol. Do you use a tooth wash? it is made with alcohol. When you put on your coat, do you

reflect that that coat was yesterday cleansed with alcohol, or by ether prepared from alcohol? When you put on your boots, do you know that the leather may have been tanned by the alcohol process—that the blacking was made with alcohol, or with vinegar made from whiskey? Do you consider that the plush upon your hat is held there by alcohol and shellac—that the cologne or other perfume that you have just put upon your handkerchief is made with alcohol? Do you take up the card picture of your wife, yourself or children, and reflect that partly the agency of alcohol you are indebted for it? Do you turn disgusted from this rum view of things to look upon the picture of some valued friend hanging upon the wall? That picture, if a painting or a photograph, was produced in some part of its development by the agency of alcohol. And how about the frame that surrounds it? The covering of that frame, which looks to you like gold, may be nothing but silver leaf covered with a lacquer of alcohol, seed lac and curcuma.

Do you go down to your breakfast? you find alcohol keeping your steak or your coffee warm for you. You take up your knife, and find the handle has been cemented on with a preparation made with alcohol. You take up your Bible, and you discover that alcohol has been used in binding it; you open it, and read that the first miracle our Lord performed was converting water into wine, in doing which he manifested his glory. And if you take up the Revised Statutes of Massachusetts, to read about this law which is making war upon this universal spirit, you may find that that also is bound in some way by rum, for alcohol is but the same spirit twice the strength.

Now is it to be supposed that all this alcohol came from the State agency?

We must all admit that these demands should and will be supplied. Is it reasonable to suppose that one store ever can become sufficiently extensive, or embrace sufficient variety and quality to meet all the demands of medical science, the skill of the artist, and the extensive demands of the manufacturer; or that one man can possess knowledge and ability enough to collect and arrange all the detail of variety, quality and quantity necessary to supply all these varied demands? And if these demands for simple or unmixed wines and spirits cannot be met under the law, how is it possible to supply the compounds; for the apothecary has no power, under the law, to dispense these articles either mixed or unmixed.

We see how universally this article of alcohol, in its various forms, is adapted to the uses of life. Let us look for one

moment to the law of supply and demand, and see how lavishly nature has provided for the *supply* of alcohol. We talk of the spirit or life of man that propels our mortal bodies, without which they become disorganized; the spirit rises, but the body ferments and decays. How universal in the vegetable kingdom is the law, that if the germ or seed is crushed, nature sets up fermentation, and man, for the uses of his superior life, collects the spirit, by the aid of heat and a very simple apparatus. You crush the sugar cane; in a single hour, by boiling down the juice to the granulating point, and allowing it to cool, you have sugar and molasses. Add a little water to your molasses, raise the temperature, and the alcoholic fermentation sets in, from which you raise the spirit by distillation. Reduce this spirit with water, and simply by bringing it in contact with the air, you produce vinegar or acetic acid. If you crush the apple, you have sweet cider; alcoholic fermentation succeeds, which gives you an intoxicating beverage; or you may raise its spirit by distillation. The potato, the beet, the peach, the tomato, the cocoanut, and all the cereals, yield up their spirits for the use of man. The wants and uses of man, both civilized and savage, demand it, and God in his providence has supplied this demand to an unlimited extent.

So multifarious and universal are the uses to which this article in its various forms is applied as a blessing to mankind, that a law prohibiting its sale and use could never be enforced, until man can repeal the law of fermentation established throughout the vegetable kingdom by God himself for wise purposes. The most we can do is to allow its use and sale for all proper purposes, by a large number of suitable persons, and restrict or prohibit the sale by parties not having the proper qualifications.

Let us consider the taste, judgment, education of the senses, and skill required to form a sound opinion of almost any wine. The whole grape is pressed, and the juice is allowed to undergo the vinous fermentation. This fermentation depends upon the condition of the grape; whether it is green, or ripe, or rotten, and whether it is rich or poor in grape sugar. It also depends upon the condition and temperature of the surrounding atmosphere. If the fermentation proceeds too slowly, it remains a syrupy juice; if it goes on too rapidly, or too far, it generates too much alcohol, or goes over into the acetous fermentation and becomes wine vinegar. And here comes in the judgment of the vintner as to the proper time to arrest this fermentation. This is done by the addition of grape brandy, and the quality of the wine depends largely upon the quantity and the time when

it is added. If the brandy is added before all the grape sugar is converted by fermentation into alcohol, and the wine is fortified by this addition, its quality is much richer, and this is the reason why the Italian wines, and others produced in warm countries, are stronger and more delicately and highly flavored. Now the flavor, or bouquet of the wine comes chiefly from the skin of the grape, and each particular variety has its own particular flavor; and just here comes in the taste and judgment of the wine merchant, whose knowledge is gained by taste, education, and experience in the business. It is he alone, by these acquirements, that can judge of the quality, age, richness and flavor. He knows them as he knows one individual from another, one animal from another, or one plant from another, although he may not be a naturalist, a botanist, or a vintner, and may not be able to tell you the reason why. He knows the various bouquets and flavors of the different wines, and the effect of age upon them, and can readily detect them from those imitations produced in the laboratory, just as the educated apothecary knows and can detect the spurious flavors by his knowledge of them. The case is very similar to the way the apothecary judges of the sensible properties of drugs, essential oils and perfumes; but in this case analysis does more for the apothecary than for the wine dealer. Analysis to the wine dealer is of no value, except to determine the admixture of some poisonous ingredient, *notwithstanding any popular opinions that may be entertained upon that subject.*

Brandies may be produced, we might say *should* be produced, by the distillation of wines. But very little, however, is produced in that way. The marc, or that portion of the grape which remains after pressing out the juice, some wine, and the addition of some other distilled spirit, are the materials from which our brandies are made, by means of fermentation and distillation. These all come from the still with very little color, each having a bouquet peculiar to itself according to the material used in the manufacture. The color of a brandy is produced by the addition of caramel—a name given to a preparation of burnt sugar—and this article, by the way, is what gives the rich cream color to a large portion of the milk now furnished to the citizens of Boston by our country friends, the *average* composition of which is two thirds milk, one third water, a little salt, and colored with caramel. We poison them with rum and water, and they feed us and poison our children with milk and water, with the addition of a little adulteration and sophistication, both parties trying to conceal their tracks under the same colors.

In regard to the adulteration of milk, lactometers do not

detect it, because the resulting compound is made to correspond to the specific gravity of the true lacteal fluid; and it can only be detected by the laborious process of a quantitative analysis to ascertain the per cent. of both butter and cheese it contains. And the principal advantage we can see in an analysis of wines and liquors, except as before stated, is that the vender of a poor article is able to dispose of his wares *with* a chemist's certificate, which he would have difficulty in doing, or be unable to do without it.

In regard to this subject of adulterations, however, we would say, that like blockade-running, the more the risk of getting the goods to the customer, the greater must be the profit, the more likely they are to be adulterated, and the less reliable must be the man who furnishes them, *contrary to law*; for as a rule, the man who violates his conscience knowingly and wilfully, by the breach of a righteous law, will cheat his customer both in price and quality *for gain*. The exception to this rule is the way the apothecary business is at present conducted by common consent, under this very questionable law.

Now, allowing the unavoidable necessity for the use of wines and spirits by any enlightened community, we say that for all proper purposes, by all reliable parties whose business it is to deal in them, the sale ought to be legalized, and the business regulated by suitable restrictions, under the supervision of the police or local authorities, if you please. And here comes in the inquiry as to who are the proper persons to whom we can entrust the sale of these articles.

We say that for all the purposes for which this class of articles is to be sold, as enumerated in the present prohibitory law (and for any other purpose we do not ask permission), the druggists and apothecaries as a class are the most suitable, at least so far as relates to their vocation, and we say nothing about their sale any farther than relates to the necessary discharge of their duties as druggists and apothecaries. By education and habit they are the most suitable persons to supply these unavoidable demands. No other class of persons have the same facilities for knowing the wants of the community—no other class of persons are so well qualified to judge of the proper and legal use that will be made of them when sold. Viewed in the same light as powerful medicines and poisons, the apothecary is expected to know, and does know, whether the customer will make a proper use of them before he sells them.

No apothecary ought to be trusted to dispense medicine, when the lives of men hang on an even balance and depend upon his honesty, knowledge and skill, as an apothecary, to

whom you are not willing to entrust the sale of this class of articles :—for if you cannot trust him in those things you do know about, what guarantee have you of those things about which you know nothing? And if the apothecary who is constantly handling and using wines and spirits to the amount of ten per cent. of his whole business, from necessity, is not a good judge of their quality, and does not serve you with them faithfully, you should never trust him on an article of medicine.

The distribution of apothecaries, to the number of inhabitants, is one to about two or three thousand persons. Their stores are always the most convenient to the population, and are open more hours than any others. In cities and large towns, they are the only persons who are upon their premises to serve customers through the night, and they are the natural custodians of this class of articles, as well as of poisons. Another great benefit to be attained by allowing apothecaries to keep a good assortment of wines and liquors, for sale in small quantities, as needed, is, avoiding the necessity of keeping it on hand in families. Most heads of families know the pernicious influence of keeping in the house a stock of these bottle spirits, that may be turned to good or evil account, by the appetites or whims of even an orderly household.

There is another important fact in connection with this subject. Within the memory of many of us, the apothecary had very little occasion to dispense wines and spirits. This trade has been driven into his hands by total abstinence principles and practices, and when these principles and practices are better known and appreciated, the apothecaries' dealings in wines and spirits will become still more extensive as a natural consequence. This state of things is brought about upon the principle of Paul's advice to Timothy, to drink no longer water but use a *little* wine for the stomach's sake and his often infirmities. We emphasize the word "*little*," because Paul was an undoubted temperance man, and Timothy was probably a total abstinence man. We have already shown that wines and spirits are an absolute necessity, and there are plenty of apostles living at this present time, both of the gospel and medicine, who will daily enjoin the same advice upon their followers and patients, for no less reason than the preservation of their lives. We say, therefore, that temperance and total abstinence people are the very ones that have made this demand upon the apothecary, and it gives us pleasure to state that this demand is steadily increasing for medicinal purposes, and will continue to increase just in proportion as the *practice* of total abstinence becomes fashionable.

Is the present law just towards the apothecary? We fail to see in it a legal right to pursue our business a single day. Some men, whose chief support is from the sale of soda water, cigars and fancy articles, may live under it without fear of its penalties, especially if they have clergymen's certificates to their spirituous nostrums; but these men are *not* apothecaries, in any true sense.

In cities, the apothecaries are about the only persons who dispense medicine. There, physicians do not practise pharmacy and deal out medicines, and know but little about them except as to their doses and effects upon their patients. It takes a longer time for the apothecary to qualify himself for the responsible duties of his profession than it does for a physician to get the degree of Doctor in Medicine.

In the country, the case is quite different; there the physician is also the dispenser, and the apothecary requires less professional qualification, and becomes more of a trader.

Yet we all practise from one pharmacopœia and dispensatory, and our practice approaches much nearer uniformity than does the preaching of those whose profession it is to preach from the one text book; and perhaps the physician and lawyer will also agree with us that our practice is quite as uniform as theirs is in their professions.

Suppose we could get a clear view of this whole question of the manufacture, sale, use and abuse of wines and spirits in the unclouded light of truth, that we should all be brought to judgment upon it, and made to polarize either to the good or evil side, according to our principles, our practices, and our loves. Suppose we make, for illustration, the dividing line to be the present prohibitory law, and all in favor of it set in battle array against those that are opposed to it, all in full armor. We throw out our radical men as pickets, and our speakers and testifiers as skirmishers. We send all our weak and timid men, with the women and children, to the rear, and the battle goes on, manfully if you please, but controlled by human passions, prejudices, and feelings, mixed up with interests, preferences, friendships and affiliations of all kinds. We are fighting in the dark, or at least by the glimmering starlight of this world, and each one waiting for the morning's dawn.

* * * * *

Now at the morning's dawn hostilities cease, and the sun of righteousness appears, as love itself, to do for every one the most good he is capable of receiving, and in the perfect light of truth, compel each one to see himself as he is, and according to his life and conscience, polarize as to his loves and affinities to the good or evil side of this question of temperance, or the use and abuse of wines and spirits.

Here would be a change of base indeed. The dividing line would become entirely obliterated, and the combatants would organize upon entirely different principles, on a new and more substantial base, and society would stratify into formations more suitable for the foundations of a new and permanent spiritual world; and we have only to carry the illustration a little further, to see how love itself, shining as a sun in its strength, may complete this separation, and cause the good to rise to a heaven of bliss, fit companions for the spirits of just men made perfect where God reigns in love, and cause the wicked to flee from the sphere of that light and *love* to a place of misery, fit companions for spirits of darkness; to a place and state of their own choice, where God also rules by *fear* for their best good.

Angels are not born in Heaven, but germinate upon earth, and are transplanted according to quality to perfect their development.

This illustration is introduced here as a protest of the apothecaries against being classed with those who hold the cup to their neighbors' lips for gain, who for money would sell the souls of men to sin and death, and fill this beautiful world with misery. The apothecaries wish to be set right in this matter before the public, with all their just and legal rights, and nothing more. They do not ask to be appointed common sellers for any and all purposes, but only as apothecaries in the discharge of their regular duties. They do not complain that the harsh provisions of the law were aimed at them, or that the public, the legislature, or the temperance men, ever intended to place them in their present position; but what they do ask now is, that this error in legislation and this great injustice to them, should be removed, and that now the error is discovered and made plain they should be allowed to take their proper position as law-abiding citizens, and lovers of temperance. And we also say that the present prohibitory law will be much stronger if our petition is granted.

SAMUEL M. COLCORD,

*Chairman of the Board of Trustees of the
Massachusetts College of Pharmacy.*

Mr. Colcord then called the witnesses who had been summoned to prove the positions taken in the Petition and Memorial, and they were cross-examined by the Committee and by both of the counsels of each side of the Liquor question. The evidence was substantially as follows:

Dr. CHARLES E. BUCKINGHAM, a Surgeon at the City Hospital, testified that he was in the daily habit of using wines and spirits in his practice, and he certainly thought it was necessary for an apothecary to use and sell them, and they could not do their duty to the public without they did so. He thought the business could not be done by the State Liquor agents. He said if he was prescribing in a family which he knew kept good spirits in the house, he prescribed such to be given, but when he thought they had none such, he always wrote a prescription and sent it to the nearest reliable apothecary. He had a child under his charge recently who could not take any thing but brandy, and on this alone he had been kept alive for ten days, when the diet was changed. His experience had led him to believe that patients who had been required to take spirits as a medicine soon became as disgusted with them as they did with castor oil, and they were glad when the time came to leave them off. He had daily on the average forty surgical patients, and of these, perhaps a dozen were now taking New England rum, and a dozen of them, ale. He thought it would not be too much to license every apothecary who was competent to carry on his business.

HENRY W. LINCOLN, Secretary of the Massachusetts College of Pharmacy, testified that in his opinion a druggist was a wholesale dealer in drugs, and an apothecary was a retailer of drugs, and that the latter was not allowed by law to sell spirits to any one, not even alcohol to a brother apothecary, and he could not see how his business could be carried on according to law. He said he had been much troubled to draw the dividing line as to what he could sell and what he could not sell, according to law. The objection to his being appointed town agent was the fact that a separate account had to be made of all purchases and sales, and it would be difficult, many times, to tell on which set of books to make many of the entries. He had been in the habit for more than twenty years of purchasing his liquors from other parties than the State Commissioner, and he should not like to change his system even if the Commissioner could sell to him, which he understood he was not allowed to do. He

thought he violated the law literally when he sold tinctures and Cologne water, but in cases where alcohol is used in preparing medicines, and they became solid by the evaporation of the alcohol, he thought he could sell them. From ten to twenty per cent. of all his sales for medicines was for spirituous liquors in some form. Many of the preparations of the apothecary, such as tinctures, essences, spirits lavender, Stoughton's elixir, and Cologne water, and many other preparations where alcohol was used, and where the other ingredients were not of a poisonous nature and were in small proportion to the alcohol, contained sufficient alcohol to produce intoxication, and were used somewhat for that purpose. Had not made any application to be appointed liquor agent, and did not have confidence in the articles sold by the Commissioner. His opinion was founded on common report.

JAMES L. HUNT, an apothecary and town liquor agent in Hingham, testified that he had taken the agency there solely in order to enable him to carry on his business as an apothecary legally, and he would not have accepted the office under any other circumstances. So far as he could judge, the liquor he had bought of the Commissioner had been good, but there had been some exceptions. A certificate of analysis was not always reliable as to the quality of the liquor for medicinal purposes. If a person were to go with a prescription to a town agent, he would have to depend on the judgment of the agent as to the purity of the spirit for a medicine. He stated that a number of years ago, before he was a town agent, he was prosecuted, convicted and fined for selling Bay rum, and about a gill of alcohol, one sale being on the written prescription of a physician, and the other being sold directly to a physician.

At this time HON. JOHN A. ANDREW stated that Mr. Royal Whiton, of Hingham, an apothecary and a strong temperance man, had been prosecuted and fined for selling spirits of camphor; and it being intimated by the Rev. Mr. Miner, that Mr. Andrew seemed to know a great deal about these cases, Mr. Andrew replied that it could hardly be wondered at, as he had passed most of his summers in Hingham since 1846.

WILLIAM T. RAND testified that he had been an apothecary twenty-three years. Was last in business in Dedham. He had been offered the agency of that town, but had declined appointment on account of incompatibility of its duties with those of his own profession. He had always taken pains in selling liquor to dispense it only to the right persons. He was prosecuted and fined for selling liquor on the prescription of a physician, to deliver which he had got out of bed at mid-

night, and he relinquished the business so as not to violate the laws of the Commonwealth. Was for many years previous to going to Dedham in the employ of the well known firm of Brewers, Stevens & Cushing, and thought the apothecaries as a class were reliable enough to have the sale placed in their hands.

At this stage of the hearing the Chairman admitted that the Apothecaries as a class were suitable persons to sell spirituous liquors, and it was so conceded by the Committee, and that any further testimony to that effect was unnecessary.

CHARLES C. BIXBY, an apothecary in North Bridgewater for the past fifteen years, said that he did not think he could do justice to his business and to the community without selling wines and spirits. He had sold California wines, and after a year or two he was notified by the officers to discontinue their sale, which he did. Soon after he was warned to appear before a Justice for selling liquor in violation of law, and one man testified to having bought a bottle of whiskey from him for medicinal purposes, nearly a year ago, and he had heard lately that it had not been half used up; and another man came to him, after having been to the town agent for some wine ordered by a physician, and, being unable to obtain it from the agent, he sold it to him; and another testified to having bought alcohol to burn in a lamp—and upon this testimony he was convicted and fined fifty dollars and costs as a "common seller." The wine which he sold was for a lady dangerously sick, and who died two days after. Never had asked to be appointed town agent, and did not know whether he could have been if he had applied for it. Did not wish to take it. Considered the agency as incompatible with the legitimate apothecary's business; the town agent at present of his town is not an apothecary, and, he should judge, was unable to put up a prescription in which liquor may form a part. The present town liquor agent, he believed, was employed in some capacity in the State House.

SAMPSON REED, of Boston, testified that since 1824 he had been an apothecary for eight years, and then a druggist until 1860, had now retired from active business, and his opinion was that an apothecary could not do his business legally under the present law. He thought the business of an apothecary and a town liquor agent were incompatible, and that if reliable apothecaries were allowed to sell liquors for medicinal and mechanical purposes and the arts, but not as a beverage, it would aid the cause of temperance, as he thought that since the present law was passed those who used liquors as a medicine naturally went to apothecaries for them.

F. W. SIMMONDS, apothecary on Washington street, testified that he had been in the business a number of years; was a temperance man and belonged to one of the Temperance Orders of Boston; had no compunction of conscience to selling spirituous liquors on physicians' prescriptions; would not care to accept a local agency, because it would require two separate forms of business and a good deal of extra and unpleasant labor.

ISAAC T. CAMPBELL, Drug Examiner of the Port of Boston, and apothecary in South Boston, testified that he did not think an apothecary could carry on the business properly and at the same time act as a State Agent, and he had declined such office on that account, and he did not believe that a first-class apothecary could get the various kinds of wines and liquors he wanted at the State Agency. He had little faith in analyses, as there were so many considerations to be taken into account, the richness and age of wines not being determined surely by analysis.

THOMAS HOLLIS, President of the Massachusetts College of Pharmacy, testified that he had been in business as a druggist and apothecary in Boston for fifty years, and until within ten or fifteen years the apothecaries had sold but little spirits, but since then physicians prescribed ten times the quantity of spirits they did a dozen or more years since (and the reason is they are learning of its usefulness in their practice), and he thought the increase in family trade had been caused by temperance men preferring to come to an apothecary rather than keep it in their own houses. He did not think an apothecary could properly perform his business, according to the present practice of physicians, without dispensing liquors. At one time he acted as sub-State Agent in connection with his own business, and he found it a great incumbrance, making a separate business and for very little pay, and being generally incompatible with the business of an apothecary.

Hon. JOHN I. BAKER, the State Liquor Commissioner, testified that the sub-agent in Boston was dealt with on the same terms as town agents; had appointed sub-agents in Boston, and they had given bonds to him and not to the city. He said he sold no American brandy; all he sold were foreign brandies of different qualities, and he had none for less than \$7 per gallon. He thought all the apothecaries in Worcester were town agents, and there were many in other parts of the State, and he had received a number of applications from apothecaries in Boston, indorsed by respectable physicians, for appointment as agents, but could not remember any names.

Had confidence in the analysis of his liquors. Purchased his liquors of Foster & Taylor. He relied as much upon the character of the parties he bought of, as upon chemical analysis. Was no judge of liquors himself, and had no confidence in the taste of individuals as to the quality of liquors.

This closed the hearing before the Committee, and on account of the lateness of the hour, and there being no rebutting testimony to be offered against our petition, the Chairman decided that we could write out our argument and hand it in to the Committee.

By direction of your Committee, Mr. Colcord was requested to draw up and offer an argument, which he did, and he presented the following

ARGUMENT

In favor of the Petition of the Massachusetts College of Pharmacy to be allowed to dispense Wines and Spirits as Apothecaries.

MR. CHAIRMAN AND GENTLEMEN :—

It was not my intention to have argued the cause of the Apothecaries, but in presenting our case we find ourselves likely to be misunderstood. There are many things we have left unsaid, and there is much evidence we have not presented. It is not to be presumed, however, that the weight of evidence or argument is not on our side, but rather that we have depended too much upon a plain statement of facts, believing it unnecessary to produce either evidence or argument. We ask only to be placed in a true position in relation to law, and the estimation in which we should be held by the public.

We have endeavored to show you that our profession is necessary to an orderly state of all civilized society ; that it compares favorably with other trades, callings or professions ;

that we are desirous of sustaining the reputation of law-abiding citizens ; that we wish to be placed decidedly on the side of temperance and morality, and we have satisfied you that we are responsible parties to whom you can safely confide the trust we ask. Now we wish to say one word as to the advantage of our position for taking a broad and comprehensive view of this whole subject. From the cradle to the grave the whole community are the customers of the apothecary. From the puff-box, the powder, the little comb and brush, the soap and the sponge, to the disinfectant that makes their remains presentable for the last funereal rites, they are all our customers. The apothecaries' prescription book is the book of knowledge in which are registered all the remedies that have been applied to alleviate or cure the diseases of the people, from infancy to old age. They all run through a regular gradation of wants and remedies to suit their various conditions of life and health, and these wants which we supply depend upon their education and habits to a very great extent, for the diseases that afflict society mainly depend upon the habits which induce them. Men of regular and orderly habits, who obey the laws of health, are customers for quite a different class of articles than are bought by those who are continually in the breach of these laws. The demand of the first-mentioned class is for articles of elegance and luxury. Those persons, who know how to value the services of a good apothecary, depend upon him for articles of purity, whether for the toilet, flavor or diet. To him they refer as to the good or evil effects of articles about which they know but little. In him they confide for articles of purity and for protection from the adulterations so common in all articles of food as well as medicine. The apothecary is not the man who sells you cream of tartar containing sixty per cent. of adulteration, or soda that gives you but half the quantity of carbonic acid it ought.

On the other hand, those who disobey the laws of health and morality are our customers for those articles which alleviate their miseries. Are they overburdened with the labors,

cares and anxieties of this life, the apothecary furnishes them with the restorative, the alleviator, the remedy. Have they fallen into temptation and immorality, that have induced disease, the aid of the apothecary is sought for relief or cure ; and should they pursue a downward course, the apothecary's art follows them through every stage until death draws the veil over their earthly career. This all passes under the eye of the apothecary, and by him is known, seen and realized.

The great question of this moral and social evil of intemperance is no exception to him, any more than are the evils and sins of prostitution and licentiousness. This may serve to show you how great are his responsibilities, and what his knowledge may be, compared with any other class of men in the world.

Now is it right that such a class of persons as the apothecaries ought to be, should be outlawed ? We have seen that the community cannot dispense with their services. Should they not rather be placed under the charge of truant police officers, and be compelled to attend schools of pharmacy, and become properly educated to perform these responsible duties ? Are they not proper subjects for State aid ? The time is not far distant when they will ask for it. It is now time that the State should demand a higher grade of qualified pharmacutists, and the laws should be so framed as to produce them. The remuneration of the true apothecary and his legal protection are not at all proportionate to his responsible duties and supposed acquirements, and shall we so legislate as to drive all the talent and honesty out of the business ? Should we not rather stimulate the apothecaries by all proper encouragement to perfect themselves and become what they should be ? Is this law designed to do this ? or is its tendency to throw odium upon the apothecaries ? Were the druggists or apothecaries consulted when the law was framed ? or was a trap sprung upon them ? or was it an oversight in legislation ? Do you suppose the great body of our conscientious clergymen, who advocated the law for the suppression of intemperance, ruin and death,

ever contemplated placing the apothecary in his present position? that the great body of temperance men in Massachusetts ever knowingly became a party to this great injustice? Impossible! Refer to the resolutions sent to the Legislature by the Congregational Church of Melrose. I quote:—

“Believing the sale of intoxicating liquors as a beverage to be injurious to the social, moral and religious interests of the community, therefore

“*Resolved*,—That the Congregational Church of Melrose earnestly protest against the passage by the Legislature of any law licensing the same for other than mechanical and medicinal purposes.

“*Resolved*,—That the present prohibitory law should not only be sustained, but strengthened by such legislation as may be necessary.”

Have we no apothecaries who can say amen to this, with all their hearts? who do not *know* that granting the petition of the Massachusetts College of Pharmacy would be adding great strength to the present prohibitory law? Are the apothecaries to be driven into the ranks of those who produce disease and death instead of those who are trying to stay its tide and alleviate the miseries of mankind?

But the impression is quite common among temperance men that all a man would need to do, who desires to open a bar-room, in case our petition was granted, is to put up an apothecary's sign, get a few bottles and drawers, a few drugs and medicines to make a show, and then fill up with a stock of liquors, and pursue an energetic business for all that may be called for. Now is there any real danger from any such imaginary cause? Allow me to state why a virtuous imagination might naturally run in that direction. The law now does not provide the means to supply the absolutely imperative demands for wines and spirits. They are not and cannot be separated from the profession of Pharmacy. The apothecary is obliged to dispense them; if you take them from the apothecaries, you make apothecaries of those to whom you confide their sale. The apothecary has paid his license to the United States Government to sell, or he could not do business. He is outlawed by his State; he is tempted by his minister, his lawyer, his doctor, and his particular friend to break the law in charity to them as a special case, for

their immediate and urgent necessity ; he becomes thereby demoralized, and comes finally to look upon the law as his natural enemy, much as thieves look upon the police, or as rats look upon the terrier. Now if you make it fine and imprisonment for any temperance man, clergyman, judge, woman, or member of the legislature to ask an apothecary to sell them any article the sale of which conflicts with the spirit of the law, under any circumstances, we should soon hear no more of this complaint even under the present law. But suppose you grant our petition and allow *all of us* to sell for medicinal, mechanical, manufacturing and culinary purposes, and no others, then make the law as stringent as you please. So far as the apothecary is concerned the wants and necessities of the community are satisfied, the apothecary can make no defence of a breach of such a law, and would be readily convicted by a jury of his own profession. The community would sustain it, because for all purposes of absolute necessity their wants are supplied, and there is no doubt that the sentiment of Massachusetts is temperance. Juries would then convict, because they could see reasonable provisions made for all purposes of necessity, and no persecution of innocent parties.

Juries who are made judges of the law that returns a fugitive slave to his claimant under the United States law, will surely take upon themselves the right to judge of a law that invades the rights of individuals and prevents a man from performing deeds of mercy and charity, in the direct line of his vocation.

But there are other considerations that make it safe to allow apothecaries to sell this class of remedies. They are jealously watched by temperance men, and their evasion of the law would soon bring them to grief from that source. They would be still more jealously watched by the liquor dealers, because it not only takes from them the necessary part of the traffic, but also takes from them their best argument for pursuing an illegal occupation. Then, again, their competition with one another is powerful in restraining them from the breach of a reasonable law.

In whatever light we may look at it we see no good reason why our petition should not be granted.

You trust the apothecary to sell the most deadly poisons, but you hold him strictly responsible for their proper use, even after they are sold. You do not forgive his mistakes as you do the mistakes of other men. The grave covers the mistakes of the physician, and the mistakes of the clergyman are not revealed to us in this world; but are they any less numerous than ours? Are the consequences any the less fatal? Yet they are not held to the strict accountability that we are. There are but four poisons in the catalogue of hundreds that we are daily selling, where the apothecary can discharge himself of the responsibility of the sale (if he makes it legally), though it may be bought for improper purposes and produce fatal results; we thank the Legislature for drawing the lines around these four—arsenic, corrosive sublimate, strychnine and prussic acid; yet, although relieved from the responsibility, how difficult it is to procure these articles of an apothecary for an improper purpose. As a general thing he knows when a customer wants these powerful poisons for proper purposes, and when he may safely sell them to a customer for legal and proper uses.

Is it a reasonable inference that persons who possess the proper moral and professional qualifications to dispense these powerful agents for good or evil, have not the proper requisites to be safely entrusted with the sale of wines and spirits for medicinal purposes?

If the sale of these articles cannot be safely entrusted to us, what shall we say of opium and its preparations, for opium occasions much more trouble and perplexity to the conscientious apothecary than do all wines and spirits; yet the poppy stands foremost in the rank of medicines for its true value, and may be turned to good or evil account with a rapidity and certainty not to be approached by spirits.

We are all placed in this world filled with good and evil, and kept here in freedom, that we may choose the one and refuse the other. The tree of knowledge of good and evil was placed in the *midst* of the garden; and though man was

commanded not to partake of its fruit, he was kept in freedom, and according as he obeyed the divine command, did he keep himself free from the curse. That tree has never been cut down. With reference to this question, would it not be well to inquire as to the principles and effects of prohibition, especially as God has so lavishly furnished us the means of producing wines and spirits; can we not reconcile this view of the subject with the golden rule, and with the prayer, "Lead us not into temptation"? are we sunk so low that our freedom should be taken from us, and that man should do it? is this the way to choose the good and refuse the evil? Undoubtedly we should use every means in our power to induce men to do so, but prohibiting men by compulsion is taking our freedom from us, and is not productive of reformation or regeneration. The most we should do by human law is to give as free use as possible to all this class of articles, for all good and useful purposes, and restrict the sale for all evil purposes.

We can see no danger to the moral or social condition of society by doing this; we can see no difficulty whatever in framing a law the best calculated to produce these results. The only question is, as to what are the proper uses of these articles, and what are the abuses that we wish to prohibit. We as apothecaries do not wish the sale of these articles placed under our care, except so far as relates to the necessities of our own proper business as pharmacutists and dispensers. We do not desire that this trade should increase upon our hands any further than pertains to the legitimate calls upon us for articles we feel in duty bound to supply. As a class we could not if we would act as agents under the present law, and be obliged to supply our customers with all the wines and spirits which we might be able to obtain from the State agency. What would be the status of pharmacy in Massachusetts if all the drugs and medicines we dispense were of the same quality as the average of wines and spirits that have come from that agency since its foundation? The apothecaries want better proof of *quality* than the evidence of any chemist's certificate as to the quality of wines and

spirits. They want articles that do not require a chemist's certificate to make them saleable. It is not sufficient reason for them that they buy their medicines for articles of good quality upon the moral and professional qualifications of the druggists. They are required to know it, before they risk their reputation and the lives of people upon what they dispense. We think we have given sufficient reasons to show why a State agency can never become a proper institution for supplying the varied wants of the medical profession, and for purposes of the arts it is equally true.

The agent is not permitted to sell to apothecaries, so that we have had no occasion to visit the agency or test the quality of his articles, but I do not believe that he ever had one drop of "pure alcohol" in the agency store, neither do I believe he ever sells a good clean commercial article of alcohol of the best quality, suitable for making the best quality of Cologne water; but I *have heard* recently reported a case where alcohol from the agency congealed in a gentleman's pantry. I have also recently heard of brandy from this agency, that in a short time after the purchase separated into strata and precipitated its color. Port wine has been obtained at the commissioner's store that druggists were not able to tell for what preparation it was intended. The apothecary who serves the community faithfully must be permitted to select all his articles from the best sources of supply, and then medicine is not any more uniform or reliable than it should be. A great deal of the modern medical skepticism is brought about by reason of the poor quality of the prescribers, the dispensers, and their remedies; there is too much of a disposition in the community to underrate the value of quality in things about which they know but little.

The neighborhood that has a good reliable apothecary ought to know how to value his services; and if they have not, they ought to give one a call at once, and sustain him in the honest discharge of his duties, for he alone is the proper person who should have the charge of their medical supplies, and to such an one they can safely confide the keeping and dispensing of their spirits. But if a town is so radical

upon this question that it desires no place of sale within its borders, but prefers that the imperative demands should be clandestinely supplied by the cities, allow it so to decide by vote; we would compel no man to live by the spirit or die for the want of it.

If the smaller towns where the physicians are also the dispensers, do not require the sale by apothecaries, let the members of Colleges of Pharmacy, who receive certificates as well of their moral as their professional qualifications, be allowed to dispense it, and hold them responsible for the sale for all proper purposes in the larger towns and cities. The Massachusetts College of Pharmacy would undoubtedly be willing to look after their members and see to the proper observance of the law, or recall their certificates of membership, according to their present by-laws. Such a course could have no damaging effect upon the College of Pharmacy, and might be made productive of much good.

It is denied by the supporters of the present law, that wines and intoxicating spirits form any very considerable portion of the remedies used by physicians in the treatment of disease; let us look at the evidence. Suppose we take the average of sick persons under treatment by physicians of the highest professional attainments, an average proportion being male and female, representing the average amount and variety of diseases, from all classes of people, and give them medical treatment upon strict principles of economy, with the view of alleviating their sufferings and performing all cures as speedily as possible. This would very nearly represent the proper treatment of disease throughout the community, and would be very fairly carried out by the treatment used in our hospitals. Now what is the proportion of spirituous liquors used in our hospitals to the total amount of all other medicines? In the Massachusetts General Hospital \$1699.47 was expended for liquors, \$2001.75 for other medicines. In the City Hospital we find that during the past year, according to their published returns, the amount expended for liquors was \$2521.58, and for other medicines \$4441.12. These returns all show nearly as much expendi-

ture for intoxicating liquors as for all other medicines, *aside* from the use of alcohol.

Is it a reasonable inference to suppose that the apothecary's sale of these articles, *including alcohol*, for medical purposes and the arts alone, should be less than ten per cent. of his whole sales? Would it be productive of the best good for which these hospitals were instituted, to have them supplied with wines and spirits only from the State agency? Would it not be better to close these institutions entirely?

If those wise men who so strongly favor this law as it now stands upon the statute book, are only living in the hope that at some future day they may be able to "thank God and take courage" for what may possibly come from that agency, and have declined using that merchandise in the past for fear of being poisoned, then surely the chemist's certificate should point out clearly that by reason of their strength and purity they should only be taken in homœopathic doses of the highest imaginative power.

And if the apothecary were allowed to purchase his intoxicating merchandise of the State agent at a profit of seven per cent. above cost, would he not greatly prefer it to paying a much greater profit if the articles were equally reliable; would not the community be much better protected as regards the quality of what they are daily consuming, and would not the State be able at any time to get better information of the value of that institution, than it now does by relying upon the opinions of men who know but little about it, and upon a chemist's certificate of analysis for *purity*, which covers all grades of *quality*?

We cannot over estimate the importance of guarding the quality of those articles we dispense, any more than we can the quality of the dispensers, when we look at the testimony of Dr. Buckingham.

That eminent physician testified that the only thing which saved the life of a child under seven years of age, was feeding him upon brandy to the amount of half a pint per diem for ten days without food, until the disease had passed its climax. And this is but one of the forty cases, now upon

the hands of this one physician, for whom he is daily prescribing intoxicating spirits, according to his testimony before you upon the stand. From the short time allowed us to give testimony before you, we deemed the evidence of this one physician sufficient to establish the fact of the necessity of prescribing and dispensing all the various wines and spirits, as his testimony was also very direct as to the variety of these intoxicating articles he is daily prescribing. We had abundance of other evidence present to the same point.

We now revert to the fact that all our witnesses testified that no apothecary could properly perform his duties as a pharmacist under the present law, even with its most liberal interpretation.

But the testimony of Mr. Lincoln went to show, that presuming the wording of the statute to be technically correct, as laws are presumed to be, his understanding of it was that druggists alone were allowed to sell only *pure alcohol*, to apothecaries and physicians; that the apothecary was not a druggist, and that pure alcohol meant only *absolute alcohol*, an article that half the apothecaries have never seen, and very seldom have occasion to use or sell, so that the apothecary had no legal right to sell any article of an intoxicating nature to another apothecary, to a physician, or on a physician's prescription, either mixed or unmixed—that this was his view of the law.

If this evidence is the correct view of the law, it would exclude the sale of Cologne water, paregoric, tincture cardamon, tincture cinnamon, tincture gentian comp., red lavender, and a host of such preparations, that comprise, we might say, the bulk of the business; for to a person accustomed to the use of opium, paregoric would be an intoxicating beverage, and instances are quite common where essences and Cologne water have been used to produce intoxication.

To prove that the apothecary could not legally pursue his business, we offered you the evidence of Mr. J. L. Hunt, the present town agent of Hingham. This estimable gentleman, strictly a temperance man, who was urged against his inclination by the town authorities to accept the agency, testified

that he only accepted it that he might legally be able to pursue his business as an apothecary; that previous to his accepting the agency he had been prosecuted and fined for selling Bay rum (an article never prescribed to my knowledge for internal use) on a physician's prescription.

His evidence went to show that even in a small town the business of a town agent was not desirable, and in a great measure incompatible with the business of an apothecary; that he would not retain the agency if he were allowed to pursue his business as an apothecary without it.

He also testified that it was absolutely necessary to allow the apothecary to sell wines and spirits for medicinal and mechanical purposes in order properly to perform his duties as a pharmacist, and that they as a class might safely be entrusted with the sale for all purposes mentioned in the law.

Mr. C. C. Bixby was put upon the stand to show, that under this law the apothecary was never safe in conducting his business, however conscientious he may be. I had known him from the time he first commenced business; for twelve years he had been my customer for the best class of goods I sold. Price to him was a secondary consideration; all his purchases were made, and all his ideas seemed to go directly towards a conscientious discharge of responsibilities. For the past three years, since I changed my business, I had seen little of him. I had no conversation with him previous to his being summoned, and knew not that he had been prosecuted until a few days previous, but I know him to be perfectly reliable, and not a dealer in wines and spirits in any true sense, but only as an apothecary.

His testimony was direct upon these points, that he only sold for purposes specified in the law as legal purposes; that he discontinued the sale for any purpose as soon as he was notified; that his neighbors the grocers were permitted to sell intoxicating articles; that after he had discontinued the sale of wines and spirits, he was prosecuted for what he had previously sold, upon three different presentments, for the purpose of making him a common seller; that in order to do this, his persecutors had to search the town for evidence dur-

ing the space of nine months. For one offence he was convicted of selling a bottle of whiskey for medicinal purposes to a strictly temperance man, who had occasion to use but little and now has the whiskey on hand. Another offence was selling alcohol to be used by a jeweller in a spirit lamp. The third offence was selling a bottle of light California wine, prescribed by a physician to sustain the life of a young lady who died but a few days after, and *that*, after the earnest entreaty of the physician and of the young lady's father who had tried but could not obtain it of the town agent, and had been previously refused by Mr. Bixby, even under these circumstances. Convicted upon this testimony before a Justice of the Peace, Mr. Bixby appealed, but Judge Rockwell decided that he had no alternative under this law but must confirm the decision of the Justice; and he was accordingly fined fifty dollars and costs, which he paid.

Now I submit that a law is unjust which places a qualified apothecary in such a position, who is endeavoring honestly to perform the responsible duties of his vocation, who is a regular member of the American Pharmaceutical Association, and enjoys the confidence of his associates. No man in any other business is liable to *such* persecution or such prosecution, and I hold that these *acts* of charity performed even in violation of such a law, are praiseworthy when compared to the opinions which brought John Bunyan to the prison or John Rogers to the stake.

The testimony of William T. Rand went to show, as in the cases of Mr. Hunt and Mr. Bixby, that the apothecary cannot legally pursue his business, and that he left the business in disgust, because he could not conscientiously discharge his duties to the sick, even taking the town agency in connection with his occupation as a pharmacist; yet no man can say that Mr. Rand is not an ornament to our profession, a thorough apothecary, and a most conscientious and every way reliable man.

If the character and testimony of the witnesses who had previously testified were not sufficient to satisfy you that the petition of the Massachusetts College of Pharmacy should be

granted, what shall we say of the testimony of Mr. Frank W. Simmons? This witness not only testified that no apothecary could conduct his business under this law, but that he was a total abstinence man, a high officer in more than one temperance organization, that all his sympathies were against rum-selling and in favor of temperance; yet that he felt obliged in some instances to supply intoxicating medicines, and that he could not accept an agency under this law, as it would be incompatible with the business of an apothecary. And when asked how he could reconcile his conscience to a breach of the law—how he dared to sell contrary to the law—he stood mute, confounded, not even daring to ask why such a law was made. And this is precisely the condition in which all the apothecaries in this Commonwealth stand before you to-day. To my mind the attitude of this witness spoke volumes, as did the tone and manner of the question.

In regard to the evidence of Mr. Campbell, the Drug Examiner, upon the question of analysis, I have only to say, that it is unnecessary for me to review that testimony, as there is no end to the discussion upon that point, and I will only say that a chemist's certificate of an analysis to ascertain the quality of wines and spirits (although it may state many things the article does or does not contain that go partly to make up the quality), is looked upon by all intelligent and scientific apothecaries as an assumed extension of knowledge in that direction of chemical science, much the same as the flavor of one gallon of brandy is made to extend through five gallons of pure spirit.

The evidence of Mr. Sampson Reed and Mr. Thomas Hollis, whose experience in the drug business covers a period of some fifty years, bears directly upon these points, that in past years the apothecary had very little occasion to dispense intoxicating spirits; that since temperance became the prevailing sentiment of the people, and particularly since the passage of the prohibitory law, the community turned naturally toward the apothecary to supply their wants, instead of supplying themselves from the liquor dealers. That in conse-

quence of the prevailing temperance principles and practices, physicians came to a better knowledge of the uses of liquors as a medicine ; that the apothecaries were the natural custodians of this class of remedies ; that they were the most reliable men to be entrusted with the sale ; that they could not properly perform their duties without the legal right to dispense them ; and that it would promote the cause of temperance to allow them to do so.

The character, standing and experience of these gentlemen ought surely to have great weight with your Committee. But the testimony of Mr. Hollis went still farther to show that an agency for the sale of liquor in connection with the apothecary business, was incompatible and demoralizing to the business of a pharmacist.

The apothecary should never be compelled to sell any more of these articles than is absolutely required in the direct line of his vocation. He should only be required to dispense them to his own customers, to people whom he knows would make a proper use of them, and not to make them a prominent article in his daily sales. He should be allowed to judge of the propriety in making a sale to any one, and not feel obliged to sell to any parties upon what they may say is the purpose for which they are wanted, as is presumed to be the position in which a sub-agent or town agent is placed by the provisions of the present law. Suppose an apothecary acting as a town agent should have a call for gin, to be used for medicinal purposes ; he proceeds to make the legal record—the date, the sale, the name of the party, for medicinal purposes, and the quantity called for to be five gallons. As a town agent he might have a legal right and perhaps feel bound to deliver it, but as an apothecary he should have the right as well as the disposition to refuse it, although the customer might protest that he had a very large and a very sick family, and expected them to remain invalids for a very long time. Temptation should not be thrown in the way of the apothecary to increase his profits by the sale of wine and spirits. By doing this you not only do not promote the cause of temperance, but you demoralize the apothecary, and

render him unworthy of your confidence in ministering to your wants as a reliable pharmacist, which is far more important. It should certainly be the policy of the State to make the apothecary a highly educated and conscientious pharmacist, and as little of a rum seller as is consistent with the honest discharge of his duties as a reliable dispenser. For this reason every inducement should be offered him to make his sales of wines and spirits as small as possible.

From some questions proposed to our witnesses by gentlemen upon your Committee, I was led to infer that some of you thought all the apothecaries might be appointed agents under the present law, and that this would be virtually granting our petition. I have endeavored to show you that this would not be the case, as regards the value of the apothecaries' services to the community. It is the aim of all Colleges of Pharmacy, and the purpose for which you have given the Massachusetts College a charter, to produce a higher grade of qualifications in our pharmacists, to enable them the better to make available the researches and scientific discoveries continually made in medicine and pharmacy for the benefit of suffering humanity. With all the time we can spare from the daily routine of our commercial duties it is almost impossible for us to keep pace with this necessary professional advancement, and in order to do this, and take the stand we feel in duty bound to do as legitimate pharmacists, many of us have discarded from our establishments the sale of tobacco, snuff and segars, soda-water, fancy articles, playing cards and stationery. And shall the State now compel us to take upon our hands the odious traffic of the liquor dealer, and that without the privilege of supplying ourselves from a reliable source?

In the ordinary course of human events, all hope to require the services of a competent pharmacist, before leaving this world for that undiscovered country. When the emergency of *your* case arrives, and your lives hang in the balance, depending in a measure upon the knowledge, skill and integrity of the apothecary, do you desire that his attention should be called from your prescription, to answer a call for

spirit, that must be investigated, refused, or sold, and registered according to law, and then come back to finish your demands upon him, with a conscience ill at ease, because of the quality of the article he has just dispensed, not being permitted to exercise his judgment in the purchase?

Gentlemen, this ought not so to be. You yourselves, as well as the counsel for the prohibitory law, heard the evidence that we produced upon this point. We know that that evidence was not made up to enable the apothecary to make money by selling rum. I leave you to judge of the truthfulness of his statement in summing up the evidence, when he declared that the apothecary could have the broadest indulgence under the present law, to pursue his business in a proper manner. To me it looks like a wilful perversion of the truth to mislead the virtuous sentiments of a temperance community, regarding the aims and objects of a Society that the State had chartered for the preservation of your lives.

But, gentlemen, allowing the deductions of the counsel for the remonstrants regarding the apothecaries to be true (which we most emphatically deny), then the temperance cause and the prohibitory law gain nothing by refusing our petition. We ask nothing but to be allowed to sell wines and spirits mixed or unmixed, for purposes specified in the law. He agrees that we are competent persons to be entrusted with that sale, and that we may all be appointed agents. Why, then, should we not be allowed to dispense as apothecaries, and not classed with licensed rum-sellers, and compelled to do more business in the class of articles he wishes to prohibit? Are we to be included in his category of absurdity, that license to sell strictly as a medicine is an absurdity compared with prohibition? He grants the necessity of using intoxicating spirits in medicine, and we proved to him that as the apothecary is called upon to dispense them, there is no dividing line between his business as an apothecary and his duty as an agent of the State or town, any more than between the different shades of color in a rainbow.

Gentlemen, pardon the liberty I take in warning you against the sophistry of that man's eloquence who attempts to prove an untenable position, by perverting the obvious meaning of Scripture, declaring it to be even probable that wine mentioned in the Bible meant grapes, or the unfermented juice of grapes, and that, too, in a land warm enough to produce the olive and the fig; reaching back as far as the days of Noah, who planted a vineyard, drank of its wine and was drunken. We all know something of fermentation, something of the meaning of words. The idea of that gentleman was a good one: that you could safely license the manufacture of wine made from water, in imitation of our Saviour's first miracle, but not quite as reverently expressed as we might expect from a gentleman of his profession, and not quite as good as the idea of the Shaker, who said he "guessed it would not hurt them any if it was made of water."

Mr. Chairman, the apothecaries have looked upon this law, so far as it relates to their business, as an error in legislation, believing that it was never intended by the Legislature or the temperance community to suppress their business, or oblige all those of us to close our doors who could not, by political favor or otherwise, procure the appointment of a local agency, no matter what may be our qualifications. There are too many issues at stake to believe this; the magnitude of the business itself forbids it. Why, sir, the cost value of alcohol used in Boston and the adjacent cities for tinctures and fluid extracts alone will amount to over \$100,000 annually. Strict conformity to this law, by the apothecaries, would work a revolution in the practice of medicine and pharmacy, and produce more misery, distress, and even death, than the ravages of a pestilence. The apothecary who would refuse the means of alleviating pain, or averting death, before he knew it to be the intention of the Legislature to place us in our present position, notwithstanding the penalties of the law, would show a selfishness, fear, and want of feeling that should forever debar him from dispensing any drug. Such a man is not to be trusted.

Gentlemen, we have presented the subject matter of our

petition in all fairness, if not in fulness. We design to keep nothing back ; we present you with no varnished representation. Any further evidence you may desire we are ready and willing to give. Whatever you may think of our evidence and our interpretation of the law, be assured that essences, tincture of rhubarb and Cologne water are used to produce intoxication ; that it is a matter of history that a Danish Princess became so accustomed to the use of Cologne water to produce intoxication, that her breath took fire and resulted in death. And it is a well known fact that a distinguished actress, in these enlightened days, was often found incompetent to appear in public by reason of intoxication produced by Cologne water as a beverage. If we have been hooped up so close that we cannot legally supply the demands for medicines, with the understanding that enough will leak out through the apothecaries to supply the necessary demands contrary to law, let me assure you it is a mistake. The apothecaries of this Commonwealth will never hold a charter from the State of Massachusetts and live in open violation of her laws, after knowing the intention of her law makers. If I know the sentiments of our profession, all reliable pharmacutists will place themselves unmistakably upon the side of law and order, whatever may be the consequences to the medical profession and the community. Enough responsibility already rests upon the apothecary.

Upon you now rests the responsibility of our future course. To you we appeal in the name of humanity, common sense and common justice, to say what we shall do in the future. The College of Pharmacy, all the apothecaries, the medical profession, all who are our customers for medicine, the temperance cause itself, all demand your careful consideration and the wisdom of your action, in reference to our petition, for in it are involved the issues of life and death.

I have been appointed to speak in behalf of the apothecaries, and I have performed my task, to the best of my ability. Let not my incompetence injure their cause with you. Believe me when I say it is not of secondary importance to the question of a general license or prohibition. As the pharmaceu-

tist so orders his business as to produce the best results for the sanitary condition and the welfare of Massachusetts, so let its *Legislature* enact as to produce the most lasting benefits to medical science, pharmaceutic art, the apothecary and the Massachusetts College of Pharmacy.

SAMUEL M. COLCORD.

In closing their Report, your Committee take pleasure in stating that they have reason to be pleased with the courtesy extended to them by the Joint Committee of the Senate and House on Licenses, of which the Hon. R. M. MORSE, Jr., is Chairman, in patiently listening to our case; particularly at the close of so many long and fatiguing sessions which they have held, and the late hour at which we closed our hearing. All which is respectfully submitted.

THOMAS HOLLIS,
SAMUEL M. COLCORD,
HENRY W. LINCOLN.

Boston, April 3, 1867.

At the regular meeting of the Board of Trustees of the Massachusetts College of Pharmacy, held this day, it was voted:—

That the argument of Mr. Colcord, in favor of granting the petition of the Massachusetts College of Pharmacy, now submitted by him to the Board, be approved and adopted, and that it be presented to the joint committee of the House and Senate of the Massachusetts Legislature, to whom was referred the petition, as the voice of this Board.

(Signed) A. P. MELZAR.

Secretary.

BOSTON, APRIL 3, 1867.

that so far as his business as to produce the best results for the sanitary condition and the welfare of Massachusetts, so far as his legislative efforts as to produce the most favorable results to the local science, the pharmacy and the Massachusetts College of Pharmacy.

SAMUEL M. CUMMINS

In closing, I beg to say, your Committee take pleasure in stating that they have reason to be pleased with the course extended to them by the Joint Committee of the Senate and House on the part of which the Hon. E. M. Johnson, Jr. is Chairman, in patiently listening to our views, particularly in the case of so many busy and faithful members which they have held and the hour at which we closed our hearing. All which respectfully submitted.

THOMAS HOLLIS
SAMUEL M. CUMMINS
HENRY W. JENCKE

Done April 3, 1897

The regular meeting of the Board of Trustees of the Massachusetts College of Pharmacy, held this day, it was voted that the resignation of Mr. Edward, in favor of granting the position of the Massachusetts College of Pharmacy, now held by him to the Board, be accepted and adopted, and that it be granted to the joint committee of the House and Senate of the Massachusetts Legislature, to whom was referred the resolution as the body of the Board.

J. P. WHELAN

Done April 3, 1897

