

them; that a committee of three then be appointed to carry out the will of the Council and submit the approved propositions in the form of resolutions, changes in the by-laws, or what not; and that this report be rendered at the meeting of the Council on Wednesday evening, August 26.

It will thus be possible to clear up this whole matter with celerity, refer it to the Association, and get it disposed of finally during the week of the Detroit meeting.

Very truly yours,

HARRY B. MASON.

P. S. I submit purposely as a postscript three suggestions which I am not prepared to make as recommendations.

They have been advanced by others, and I think it might be well to consider them at the same time and thus clear up the whole atmosphere:

1. Abolish the House of Delegates and let the Council take over its work.
2. Abolish the Historical Section.
3. Change the Women's Section to an auxiliary."

Do you favor above motion? It will be regarded as *Motion No. 48 (On special order of Business for Council Meeting of August 25, 1914)*.

J. W. ENGLAND,

Secretary of the Council.

415 N. 33d Street.

The Pharmacist and the Law

AGENCY CONTRACT—LIABILITY OF AGENT.

A contract between a medicine company and an individual required the company to ship proprietary medicines to the individual for sale at retail, and bound him to sell at prices fixed by the company, to remit each week one-half of the receipts of the business, to submit weekly reports of the business, and on the termination of the contract settle in cash for the balance due the company on account. In an action by the receiver of the medicine company it was held that the contract was not a contract of sale, but an agency contract, and the individual paying the half of the receipts for goods sold was not liable for the value of goods in his possession at the termination of the contract.

Davis v. Woolsey, South Dakota Supreme Court, 147 N. W. 977.

LIABILITY FOR EXPLOSION.

Action was brought for personal injuries caused by the explosion of a cylindrical tank containing liquid carbonic acid gas. The tank was on the premises of the defendant, a drug company, when it exploded, and the plaintiff was working on the floor above. It was held that the mere fact of the explosion of the tank upon the defendant's premises was not sufficient to charge it with negligence. There must be some evidence that the tank was at the time of the explosion in the defendant's custody and control. In the absence of such evidence judgment was entered for the defendant.

Conley v. United Drug Co., Massachusetts Supreme Court, 105 N. E., 975.

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SALE OF LIQUOR—PRETENDED DRUGGISTS.

On appeal from a conviction of a violation of the local option law it appeared that the two defendants were partners in business as pseudo-druggists; neither had a license as a pharmacist, nor did they have a pharmacist in their employ. They employed a retired physician, and under what they claimed was a prescription written by him a sale was made of a quart of whisky. The sale was made by one of the partners in the defendant's store. The evidence was contradictory as to whether the other defendant was present, and there was no evidence that the sale was contrary to his wishes or instructions. It was held that, the defendants not having a pharmacist's license, and having no licensed pharmacist in their employ, they were not druggists and had no right to sell whisky on a prescription or without it. Every sale of whisky made by them was unlawful. The very nature of the partnership, so far as the sale of liquor was concerned, was a conspiracy to violate the law, and under these circumstances each was liable for a sale made by the other.

State v. O'Kelly, Missouri Supreme Court, 167 S. W., 980.

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CONTRACT OF SALE FOR CASH—INSPECTION OF GOODS—BUYER'S REMEDIES.

The contract of sale of a showcase stipulated, "Terms net cash. All terms mean from date of shipment, and not from date goods are received," and provided that, if goods were not up to contract, the seller might en-

ter on the buyer's premises and remove the same, and that a retention of the goods for ten days by the buyer without complaint was an acceptance, and a conclusive admission of the representations made by the seller. It was held that this did not prevent the seller from requiring the buyer, through draft, with bill of lading attached, to pay for the goods before obtaining possession. Where the buyer paid the draft and took possession of the goods, he had ten days within which to examine them. If during that period he discovered that they did not comply with the contract, he might complain to the seller, and either return the goods and demand the price, or he might keep them and sue for breach of warranty.

Eason Drug Co. v. Montgomery Showcase Co., Alabama Supreme Court, 65 So. 345.

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MISBRANDING OF INSECTICIDE.

In proceedings for the condemnation of insecticide labeled "Sulpho-Naphthol" and "Inert Substance Water 7%, Insecticide 93%," it was held that the product was misbranded for the reason that it contained less than four-tenths of 1 percent of sulphur, the presence of which was due to chemical or accidental impurities, although the usefulness of the article was not affected, and also because it contained as much as 10.5 percent of water. A manufacturer, it was held, may not give to his product a name which indicates the presence in it in substantial quantities of a constituent when such is not the fact. *Libby, McNeill & Libby v. United States*, C. C. A., 210 Fed. 148. The manufacturer of the product expressed itself as willing to consent to a decree of condemnation. It did not wish to put out its product under a name which could lead any reasonable person to believe that he was getting something other than he was. It was willing to adopt another name, and in some way convey the information that the article, heretofore called sulpho-naphthol, does not contain any appreciable quantities of sulphur or any sulphur derivative.

United States v. Two Cases of Sulpho-Naphthol, 213 Fed. 519.

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TAXATION—ADVERTISING PATENT MEDICINES.

Appeal was made from a conviction for an alleged violation of section 2 of chapter 90

of the Mississippi Laws of 1912, by which a tax of \$150 is imposed on "each person, firm or corporation selling or advertising by harangue, in any town or city, patent medicines, except a licensed merchant or druggist selling from his place of business." The appellant sold a lot of patent medicine to the Marks Drug Company, either a corporation or a partnership, engaged in the sale of drugs in the town of Marks, Miss., having a regular place of business, and agreed, as a part of the consideration for the purchase thereof, that he would assist the company in advertising and introducing it. This he did in the following manner: A platform was erected in front of the company's store on which the appellant would stand, accompanied by a negro with a banjo. This negro would attract a crowd by playing his banjo, singing, and telling stories, and the appellant would then make a speech telling the crowd of the great benefits to be derived by them from the use of this medicine, which they could purchase from the Marks Drug Company. He would then invite the crowd to follow him into the store. After the crowd would congregate in the store, sales of the medicine would be made to the members thereof by employes of the drug company. It was held that, as it appeared that the appellant, in advertising this medicine, was acting for the Marks Drug Company, which company had the right to have its medicine so advertised if it desired to do so, no crime was committed.

Hass v. State, Mississippi Supreme Court, 65 So. 502.

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VIOLATION OF LOCAL OPTION LAW—SUFFICIENCY OF EVIDENCE.

The proprietor of a drug store was indicted for selling intoxicating liquor to one Brown without having a license and in violation of the local option law. Brown was the only witness for the State and defendant the only witness for himself. Brown testified that he made one purchase of a quart of whisky from the defendant's clerk in charge of his drug store, without having a prescription for it. He was indefinite as to the date, but stated that it was about the middle of the winter of 1912 and 1913 and during the defendant's absence; he thought while the defendant was out of town. The defendant testified that he was absent in Arkansas from the first week in February to the first week in March, and

that he never heard of the sale in question until after the indictment; that he never authorized his clerk to make a sale; on the contrary, had directed him not to sell liquor without a written prescription from a physician. This was all the evidence, except that between five and six years before the sale, and before the adoption of the local option law, he had pleaded guilty to selling liquor without a license. On appeal, it was held that the evidence was insufficient to authorize a conviction.

State v. Walls; Mo., 167 S. W. 1160.



LIENS FOR WAGES.

The prescription clerk and porter of a drug store, the stock in which had come into the hands of a receiver, filed a petition for the establishment of a preferred lien for employe's wages given by Tennessee Acts 1897, c. 78, as amended by Acts 1905, c. 414. The property was described as "the drug business at the corner of C. and M. Avenues in Memphis, Tenn." There were other prior liens on part of the fixtures. It was held that the petition was properly denied, as it should have described the property specifically, with a statement of the nature of the lien, or an attachment should have been issued and levied.

Hessig-Ellis Drug Co. v. Stone, Tennessee Supreme Court, 167 S. W. 864.



UNITED STATES PUBLIC HEALTH SERVICE.

List of Changes of Stations and Duties of Commissioned and Other Officers of the United States Public Health Service.

Sanitary Chemist H. C. Colson. Directed to proceed to Luray, Va., and take charge of the experimental plant constructed by the Service for the investigation of tannery wastes. August 8, 1914.

Surgeon C. W. Vogel. Directed to proceed to Philadelphia, Pa., for conference with health authorities with reference to organization of campaign against rodents. August 21, 1914.

Pharmacist F. A. Stump. Relieved from duty at Honolulu, Hawaii, and directed to proceed to Chelsea, Mass., and report to the medical officer in charge of the Marine Hospital for duty and assignment to quarters. August 24, 1914.

Official: (Signed) RUPERT BLUE,
Surgeon-General.

Surgeon W. J. Pettus. Directed to proceed to Liverpool, Eng., for duty in connection with sanitation of vessels in plague precautionary measures. August 13, 1914.

Surgeon S. B. Grubbs. Directed to proceed to Mobile, Ala., on request of health authorities, for duty in connection with rodent extermination campaign. August 14, 1914.

Passed Assistant Surgeon A. D. Foster. Granted two days' leave of absence from August 15, 1914, on account of sickness. August 17, 1914.

Passed Assistant Surgeon F. A. Ashford. Granted one month's leave of absence from August 17, 1914. August 12, 1914.

Passed Assistant Surgeon Lawrence Kolb. Granted one month's leave of absence from August 27, 1914. August 12, 1914.

Assistant Surgeon W. F. Draper. At the request of the Office of Public Roads, Department of Agriculture, detailed to make an investigation of the sanitation of convict camps in the states of Colorado, Utah, Oregon, Washington, Wyoming, and such other states as the office may direct. August 17, 1914.

Assistant Surgeon G. A. Kempf. Granted seven days' leave of absence from August 6, 1914, under paragraph 195, Service Regulations. August 5, 1914.

Pharmacist E. B. Scott. Granted six days' leave of absence from August 10, 1914. August 5, 1914.

Pharmacist G. A. Morris. Detailed to represent the Service at the meeting of the American Pharmaceutical Association to be held at Detroit, Michigan, August 24-29, 1914. August 13, 1914.

Assistant Epidemiologist F. E. Harrington. Directed to proceed from Cambridge, Md., to New Albany, Miss., for duty in investigations of rural sanitation. August 12, 1914.

Technical Assistant M. I. Wilbert. Detailed to represent the Service at the meeting of the American Pharmaceutical Association to be held at Detroit, Mich., August 24-29, 1914. August 13, 1914.

BOARDS CONVENED.

Board of Commissioned Medical Officers convened to meet at the Bureau at the call of the chairman, for the preparation of questions for the mental examination of Pharmacists C. C. Cannon and Ralph E. Knouse to determine their fitness for promotion to the grade of Pharmacist of the Second Class.

Detail for the Board:

Assistant Surgeon-General W. G. Stimpson, Chairman; Surgeon C. C. Pierce, Recorder. August 17, 1914.

Senior Surgeon H. R. Carter and Surgeon J. T. Burkhalter detailed as members of a Revenue Cutter Service, retiring board to meet at Baltimore, Md., by direction of the Secretary of the Treasury. August 18, 1914.