invert sugar), and faint red colorations with the other honeys mentioned.—Pharm. Ztg., LVII (1912), No. 71,719.

Extract of Indian Hemp: Uselessness of Acetylization for its Standardization.—Since the pharmacological activity of Indian Hemp is largely due to cannabinol, C. R. Marshall and J. K. Wood considered that the determination of the acetyl value of hemp preparation might give an indication of their strength. They find, however, that such is not the case, since there appears to be no definite relation between the pharmacological activity and the acetyl value. New charas, old charas, and extract of Indian Hemp, B. P., having the relative activity expressed by 20, 1, and 16, respectively, showed acetyl value of 134, 123, and 295. A sample of cannabinol distilled from old charas had the relative activity 6, and the acetyl value 190; another sample, distilled from new charas, showed 18 and 218 respectively. The authors conclude that no simple chemical method is at present available as a substitute for pharmacological experiment in the standardization of Indian Hemp preparations.—Brit. Med. Journ., 1912, 1, 1234.

Fluidextract of Ergot: Advantageous Use of the "Syphon Percolator."—Dr. Kunze calls attention to the advantageous use of the "Syphon percolator" for extracting ergot according to the process of the G. P. for the fluidextract. He finds that owing to the formation of smeary masses in the percolator, percolation is impeded and often comes to a full stop when the operation is conducted in percolators of the ordinary form. By the use of the "syphon percolator," the liquid accumulates at the bottom and is drawn upward by the syphon, the flow becoming continuous when sufficient percolate has accumulated and the syphon has been set into action. The author's description of the "syphon percolator" agrees with that, usually given in American text books, of Squibb's "well-tube" percolator.—Pharm. Ztg., LVII (1912), No. 98,988.

Concentrated Infusions: Comparison with Freshly Prepared Infusions.—A. Heiduschka and Joseph Schmid report the results of comparative biological and chemical experiments made with concentrated infusions of digitalis and of ipecacuanha representing the respective drugs weight by weight, which are recommended for the extemporaneous preparation of the infusions, and of infusions prepared by the official process direct from the drug. The chemical method consisted in the determination of the extract, the specific gravity, and the ash content, supplemented in the case of digitalis by the estimation of the digitoxin content of the infusion, by the method of Keller (modified), and in the case of ipecacuanha by the alkaloid determination prescribed by the G. P. V.; while the frog method of Focke was applied to the digitalis infusions for a comparison of their physiological activity. The results, which are exhibited in form of a table, prove conclusively that infusions made from these so-called concentrated infusions are pronouncedly inferior to infusions made directly from the drug, and lead to the conclusion that both infusions and decoctions should invariably be made freshly in accordance with the official requirement.—Zentralbl. f. Pharm., 1912, No. 41 .

The Pharmacist and the Law

ABSTRACT OF LEGAL DECISIONS.

ORAL CONTRACT FOR SALE OF SODA FOUNTAIN—STATUTE OF FRAUDS. An oral contract was made for the sale of a soda fountain, of which the parts were to be assembled by the seller. The purchaser refused to accept the fountain, and in an action for the contract price it was urged as a defense that there could be no recovery because there was no sufficient written agreement between the parties, as required by the statute of frauds, providing that every contract for a sale of "goods, chattels or things in action" for the price of $50 or more shall be void unless a note or memorandum thereof be made in writing and subscribed by the parties to be charged therewith.

The fountain which the plaintiff agreed to deliver was of particular dimensions and finished after a special design furnished by a third party. It was not an article manufactured by the plaintiff in the ordinary and usual course of business. The woodwork was to be furnished by one party, the marble work by another, and the working parts by a

third; all of which the plaintiff contracted to assemble and deliver to the defendant, in the form of a complete new soda fountain after a special design, adapted for the use to which, and in the place where, the defendant had planned to put it. It was held that the contract was for the manufacture and sale of a thing made to suit the fancy and serve the particular convenience and purpose of the defendant, without a market value for use in general trade, and therefore, although the agreement might result in the production and sale of a chattel, it was one for work and labor, and not within the statute of frauds.

The fountain having been manufactured to the defendant's order after a special design, it was held, following the rule in the majority of the states, that the seller might elect to hold the property for the purchaser and recover the contract price; the article being presumptively without a market value. Although the contract provided that title should not pass until the fountain was set up and accepted, the seller might, upon tender of delivery and refusal, sue for the contract price. The tender, coupled with ability to deliver and election to sue vested title in the purchaser for the purpose of the action.

Bond v. Bourk, Colorado Supreme Court, 129, *Pac.* 223.

PURE FOOD AND DRUGS LAW—INTERSTATE COMMERCE. A corporation located in the southern district of the state of New York was indicted for violation of the Pure Food and Drugs Law. It was held that an objection that it could only be prosecuted in the district where its principal place of business was located could not be raised by plea based on the wording of the information.

Section 2 of the statute prohibits the introduction into any state of any article of food or drugs adulterated and misbranded, and that any person who shall ship or deliver for shipment from any state to any other state any such adulterated article shall be guilty of a misdemeanor. It was held that since the statute relates solely to interstate commerce, no jurisdiction to prosecute for violation of the act can be acquired, except through the existence of interstate commerce. It was also held that Section 4, which provides that the Secretary of Agriculture, after an investigation of the alleged violation of the law, shall at once certify the fact to the United States district attorney, requires the certification to the district attorney in whose district prosecution for the offense charged should be laid, Section 10, providing for the seizure of adulterated or misbranded goods within any district where they may be found, relates to civil proceedings against the goods only, and does not determine jurisdiction of a criminal prosecution. The gist of the offense is the shipping or delivery for shipment of adulterated or misbranded goods, to be introduced into another state by interstate commerce, and therefore jurisdiction exists in the federal court of the district from which the goods were shipped though the defendant did not reside in such district. The statute did not repeal the general three-year statute of limitations applicable to crimes, so as to require immediate prosecution on the theory that in case of delay, the right of prosecution would be barred by laches.

United States v. J. L. Hopkins Co., New York E. D. District Court, 199 *Fed.,* 649.

OWNERSHIP OF BANK DEPOSITS. In summary proceedings by the trustee of a bankrupt drug company against a bank, the bank holding notes against the bankrupt for an amount larger than the bankrupt's total deposits, claimed the right to set off the notes against the deposits. The trustee claimed that the deposits had been made under a special arrangement with the creditors, to be paid to them on their debts pro rata, and that the bank had notice thereof. The deposits were entered on the bank's books to the credit of the bankrupt, without anything to show that they were other than ordinary deposits. At the time of the institution of the bankruptcy, the greater part of them consisted of the proceeds of a note given to the bankrupt for the purchase of its goods. It was held that the bank's claim was not merely a colorable one, but an adversary one, and could only be determined in a plenary suit between the bank and the trustee, and not by summary proceedings in bankruptcy.

First Nat. Bank of Thomasville, Ga., v. Hopkins, C. C. A., 199 *Fed.* 873.

ADULTERATION — MISBRANDING—GRENADINE SYRUP. A shipper consigned from Boston for delivery in New York 30 cases containing bottles labeled "Grenadine Syrup," as being adulterated within the meaning of the Food and Drugs Act, in that a compound sugar syrup had been substituted wholly or in part for the food named, and as being misbranded

within the meaning of the act, in that the label deceived and mislead the purchaser into the belief that the food consisted of grenadine syrup, whereas in fact it did not. The shipper denied adulteration and misbranding. The government contended that "Grenadine Syrup" means only syrup composed of sugar and the juice of the pomegranate. The shipper claimed that according to the accepted meaning of the words they signify only a sugar syrup having a certain color and flavor. He conceded that no pomegranates were used in the manufacture of the syrup. If the government was right in its contention that the words "Grenadine Syrup" have, in common acceptation, the limited meaning it asserted, it had proved adulteration and misbranding. It was, however, held that the term does not in its common acceptation, mean a syrup made from pomegranates but is used in commerce to designate, not a syrup so made, but a syrup possessing a certain characteristic flavor and color. The purchaser of a syrup so labeled would not have the right to expect a syrup actually made from pomegranates. The syrup labelled was therefore not subject to forfeiture.

United States v. Thirty Cases Purporting to be Grenadine Syrup, Massachusetts D. District Court, 199 *Fed.* 932.

MANUFACTURE OF SMOKING OPIUM. The Circuit Court of Appeals holds that any process whereby crude opium is converted into a product fit for smoking constitutes a "manufacture" of smoking opium within the meaning of the Internal Revenue Act of Oct. 1, 1890, imposing a tax upon all opium manufactured for smoking purposes in the United states, and prescribing regulations for such manufacture to be observed under penalty of criminal prosecution. That act was not repealed nor its application narrowed by the Act of Feb. 9, 1909, prohibiting the importation of opium for other than medicinal purposes.

Marks v. U. S., 196 *Fed.* 476.

VALIDITY OF ADRENALIN PATENTS. The Takamine patent, No. 730,176, for the glandular extractive product commercially known as "Adrenalin," claim 1, covers "a substance possessing the therein described physiological characteristics and reactions of the suprarenal glands in a stable and concentrated form and practically free from inert and associated gland tissue." Claims 2, 9, 11, 12 and 14, all contain a reference to "associated gland tissue." The Circuit Court of Appeals holds that these claims construed in the light of the specification, must be limited to a substance possessing the described characteristics and reactions the constituents of which, or some of them, were at one time associated with suprarenal gland tissues. As so construed all of these claims were held to be valid. Claims 6, 13 and 15 of the patent, which do not contain such limitations, were not passed upon. The Takamine patent No. 753,177, for a glandular extractive compound dealing with a salt of the product covered by patent No. 730,176, claims 5 and 6, which are expressly limited to a compound of an acid and "the herein described product of the suprarenal glands" were held valid. Claims 1 and 2, which were without such limitation, were not passed upon.

Parke, Davis & Co. v. H. K. Mulford & Co., 196 *Fed.* 496.

ILLEGAL SALE OF POISON—INDICTMENT. An indictment under the Minnesota statute, R. L. 1905, Section 2340, purported to charge the defendant with the crime of permitting the vending of poison in his place of business without the supervision of a registered pharmacist or assistant, resulting in the death of a human being. It alleged the name of the person to whom the sale was made, but not the name of the person making it; that the defendant knowingly permitted the sale, but not the manner or mode in which the defendant permitted the sale; and that the sale was made without the supervision of a registered pharmacist. It was held that the indictment stated facts sufficient to constitute a public offense.

State v. Mayo, Minnesota Supreme Court, 136 *S. W.* 849.

SODA FOUNTAIN TANK EXPLOSION—LIABILITY. In an action for the death of an employe caused by the explosion of a soda fountain tank, it was found that the proximate cause of the occurrence was the negligence of a co-employe who had been directed by the employer to instruct the deceased how to charge the tank. It was held that the negligence was not that of the fellow servant, but of the employer, and hence the employer was liable. Such co-employe having charge of the employer's soda department, and it being one of his duties to see that the fountains were charged, he represented the employer in giving such direction. The tank which exploded was badly rusted and scaled and in

use in a place and under circumstances highly conducive to rust and deterioration. It was held that the employer's negligence in failing to use reasonable care to maintain the tank in a safe condition was for the jury. An instruction to the jury that the employer was bound, in making an inspection of the tank to do what a reasonable man of ordinary prudence would do to keep the tank in a reasonably safe condition was not error. While the reference to inspection might properly have been omitted, it could not be said that it misled the jury, although there was no evidence showing that inspection of such apparatus was usual or customary.

Reference by the plaintiff's counsel, in his argument, to the death as a murder worthy of the pirates of old, remarks that the employe was sent into a sewer reeking with slime and smells, without the opportunity to prepare for eternity given to the worst criminal, and that the jurors would not want it on their conscience that they had placed a man in such danger, were held to be inflammatory and improper, and contributed to a reduction of the verdict from $6,286.01 to $3000.

McDonnell v. Central Drug Co., Michigan Supreme Court, 136 *N. W.* 383.

UNLAWFUL SALE OF COCAINE—EVIDENCE. In a prosecution for unlawfully selling cocaine, a doctor, who was also a pharmacist, testified that he could not tell the difference between cocaine and epsom salts, except by an actual test. It was, nevertheless, held that his opinion that a powder in a package which he tasted was cocaine was properly admitted, he having previously described the effect of cocaine and the effect of the powder which he tested and as he did not say that his opinion was unsatisfactory.

A person to whom the sale was alleged to have been made was a witness for the defendant. It was held that the evidence of an officer that he saw the defendant give the witness a package for which she paid him and received change, and that as soon as she came out of the house he arrested her, and found on her person the package, which contained cocaine and the change tied up with it in a handkerchief, and that she admitted purchasing it from the defendant was held admissible to contradict her.

State v. Bruno, North Carolina Supreme Court, 74 *S. E.* 462.

INTOXICATING LIQUORS—SALES BY DRUGGISTS—ASSIGNMENT OF LICENSES. In a prosecution for selling liquor without a license the West Virginia Supreme Court holds that an endorsement of a transfer on a druggist's license previously granted by a court, by the clerk thereof, without previous authority of such court lawfully given, is void. The subsequent grant and confirmation of such transfer by such court, though regularly and lawfully done on proper application, will have no retroactive effect to protect the assignee of such license against the consequences of his prior unlawful act in making sale of spirituous liquors.

Neither a druggist, nor registered pharmacist, not a licensed druggist, can under the laws of West Virginia, lawfully sell spirituous liquors, even upon the prescription of a physician without a state license therefor, as required by Section 1 of Chapter 32, Code 1906.

When by statute, as in West Virginia, an act is made an offense under the liquor laws without regard to the intent with which it is done, evidence on the subject of intent is not material; and on the trial of one charged with a violation of such statute, there is no error in rejecting such evidence, or instructions to the jury thereon.

State v. Ross, 74 *S. E.* 670.

DRUGGISTS' LIABILITY FOR CLERK'S NEGLIGENCE. Action was brought against a druggist for the negligence of a clerk employed by him in putting up a prescription. The prescription read "Rhei., Calumba, Bismuth Sub., Sodii Bicarb., Zingiber, Fiat in Chart. XXIV, One t. i. d." The clerk read the prescription as intended, except that he interpreted the second word to mean "Calomel" instead of "Calumba"; and he accordingly put up the powders, each containing five grains of calomel. A prescription of such a quantity to be taken three times a day, making a total of 120 grains, or 2 drams in eight days, would be unusual, though not unprecedented in some violent diseases. The quantity of calomel compounded by the clerk attracted his attention, and he inquired of the plaintiff through her interpreter (she being an Italian who did not undertand English) if she understood the dose, and had any special instructions from the doctor. The record did not show that any response was given to this inquiry. After taking six of the powders the plaintiff became ill. The defendant denied

the negligence and also based his defense upon the allegation that his clerk was a licensed pharmacist. It was held that a druggist's liability for his clerk's negligent filling of a prescription is not defeated because the clerk was a competent druggist of experience. A druggist must use ordinary care in filling a prescription; the degree of vigilance and prudence called for being commensurate with the dangers involved. "Ordinary care" with reference to the business of a druggist was held to signify the highest practicable degree of prudence, thoughtfulness and vigilance, and the most exact and reliable safeguards consisted with the reasonable conduct of the business, in order that human life may not constantly be exposed to the danger flowing from the substitution of deadly poisons for harmless medicine.

The jury's finding that the clerk was negligent in compounding the powders was held not to be inconsistent with their findings that calomel was furnished in the prescription by mistake, that the prescription as he read it aroused the clerk's suspicion that calomel was not intended, and that the clerk made no reasonable effort to ascertain whether he was mistaken.

Tombari v. Conners, Connecticut Supreme Court, 82 *Atl.* 640.

SALES—RETURN OF GOODS. Where a druggist ordered certain drugs, to be paid for in 30, 60, 90, 120 and 150 days, and the vendor agreed that in consideration of the fulfilment of the terms of the order and other agreements the vendee could return any goods remaining unsold at the end of the year, the vendee had a right to return the drugs remaining unsold at the end of the year, although he had not paid the entire purchase price according to the terms of the order.

Ramsey v. Hessig-Ellis Drug Co., Oklahoma Supreme Court, 122 *Pac.* 662.

QUALIFICATIONS FOR REGISTRATION—PENNSYLVANIA ACT OF 1905. The word "retailing" used in the Pennsylvania Act of 1905 does not necessarily confine the experience of an applicant for registration as a registered pharmacist to a retail drug store. Where an applicant has had four years' practical experience in the business of retailing, compounding or dispensing of drugs, chemicals and poisons, and of compounding physicians' prescriptions, although part of said time was at a United States army post hospital, and is a graduate of a reputable and properly chartered college of pharmacy, such applicant comes within the qualifications prescribed by the Act of 1905.

Raines' Case, 38 *Pennsylvania Co. Ct.* 233.

PURE FOOD AND DRUGS ACT—NOTICE AND HEARING. The United States Supreme Court holds that the notice and preliminary hearing by the Department of Agriculture, which must be given under the Pure Food and Drug Act of June 30, 1906, to the person from whom the sample was obtained, when, upon examination by the Board of Chemistry, an article found to be adulterated or misbranded, is not a condition precedent to the prosecution of a manufacturer, instituted by the Department of Agriculture or its agent, for shipping misbranded goods in interstate commerce.

U. S. v. Morgan, 32 *U. S. Sup. Ct.* 81.

VIOLATION OF RULE UNDER PURE FOOD ACT. The Nebraska pure food statute provides that testing of cream for commercial purposes "shall be done in accordance with the rules and regulations therefor prescribed by the commission" Ann. St. 1911, 9838. The Commissioner made a rule that payment for cream purchased for commercial purposes should not be made on the same day of the purchase. It was held that a defendant could not be punished criminally for a violation of this rule, the time and manner of payment having no connection with the testing of the cream.

State v. Elam, Nebraska Supreme Court, 136 *N. W.* 59.

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ABSTRACT OF U. S. TREASURY DECISIONS.

(T. D. 33069.) FORFEITURE AND DESTRUCTION OF SMOKING OPIUM. The opinion of the Attorney-General is that smoking opium seized for violation of Section 1 of the Act of February 9, 1909, prohibiting its importation, may, under Section 2 of the act, be summarily forfeited and destroyed by collectors of customs without judicial proceedings. The offense is committed whenever smoking opium is fraudulently and knowingly brought by an offender within the territorial limits of the United States. The offense is then complete, although the opium may not have been

landed from a ship or have been carried across the customs lines.

"There is an entire distinction," the Attorney-General says, "as to the propriety of summary destruction between articles which are nuisances *per se* and articles of a lawful character, but brought within the ban of the law by some collateral circumstance. Opium belongs to the former class. It is a noxious drug fitted by nature to do harm to the community. It is, in and of itself, a menace. It belongs to the class of things which 'carry their own identification as contraband of law' (220 U. S. 57), 'which are outlaws of commerce' (Ibid. 58)."

(T. D. 33117—G. A. 7420.) DRUGS—ESSENTIAL OILS. It is held by the Board of General Appraisers that oil of cypress, oil of cloves, oil of cardamom, oil of Ceylon cinnamon, and oil of pennyroyal distilled from drugs, which, through the processes of distillation, have lost their identity as such are no longer crude drugs, but are essential oils, and are subject to duty at the rate of 25 percent ad valorem under paragraph 3 of the tariff act of 1909.

(T. D. 33118—G. A. 7241.) MEDICINAL PREPARATIONS.—*Ext. Taraxaci* "Allens," *Ext. Gentianae U. S. P.*, and *Syr. Rhamni*, are held by the Board of General Appraisers not to be drugs within the meaning of the language of paragraph 20 of the tariff act of 1909, but medicinal preparations, and as such are dutiable at the rate of 25 percent ad valorem under paragraph 65 of the act. It was not denied by the protestants that they were extracted from roots and berries having medicinal properties and were prescribed for and used as medicine.

(T. D. 33131.) DRAWBACK ON MEDICINAL AND TOILET PREPARATIONS. T. D. 29719 of April 30, 1909, providing for the allowance of drawback on flavoring extracts, concentrated essential oils, concentrated essences, and perfumes manufactured by Van Dyke & Co. of New York, is extended to cover medicinal and toilet preparations manufactured by that company with the use of tax-paid alcohol, and amended to permit the filing of supplemental sworn statements.

(T. D. 33167.) MENTHOL — MEDICINAL PREPARATIONS. The United States Court of Customs Appeals holds that menthol, or peppermint crystals, is not a crude drug, but a manufacture from the peppermint plant. As imported it is sometimes used without the addition of any carrying material for medicinal purposes, while its more common use is in solution or as a salve mixed with inert matter or the like. It was held properly classified as a medicinal preparation and was dutiable accordingly under paragraph 65, tariff act of 1909. The fact that in its customary use it is to be put in form for such use by the use of a carrier, or that it is to be dissolved, so long as it requires no chemical change and no compounding with other medicinal ingredients to make it useful as a medicine, does not result in taking it out of the category of medicinal preparations.

(T. D. 1825.) ALCOHOLIC MEDICINAL PREPARATIONS. The Elixir Calisaya Bark, manufactured by the Upjohn Co., is now manufactured under a formula approved by the Internal Revenue office, and its name has therefore been removed from T. D. 1794, of August, 1912, and special tax is not required for its sale.

(T. D. 1831.) DENATURED ALCOHOL. The Commissioners of Internal Revenue have authorized the following formula for use in the manufacture of transparent soap:

Formula No. 3a: To 100 gallons of ethyl alcohol there is added 6 gallons of the following mixture: Five gallons of commercially pure methyl alcohol, having a specific gravity of not more than 0.810 at 60° F., and 1 gallon of castor oil.

THE TOWN OF "NO GOOD."

Have you heard of the Town of
"No Good," on the banks of the River
Slow,
Where the Some-time-or-other scents the air,
And the soft Go-easies grow?
It lies in the valley of What's-the-use, in the
Province of Let-her-slide;
It's the home of the reckless I-don't-care,
where
The Give-it-ups abide.
The town is as old as the human race, and it
Grows with the flight of years.
It is wrapped in the fog of the idler's dreams,
Its streets are paved with discarded
schemes,
And are sprinkled with useless tears.

—*The Australasian Journal of Pharmacy.*