and genuineness of salicylic acid, which, he claimed, is not a good method for distinguishing the natural product from the synthetic, and looks as though it will result in putting a premium upon adulteration. It will be a very easy matter to so prepare the synthetic product as to have it respond to the test proposed to determine the genuine article.

Dr. Blumenschein said: It looks very much now as though the output of natural salicylic acid, so labelled, is greater by far than the supply of oil wintergreen can possibly produce, so one can draw his own conclusions.

The status of bichloride of mercury in the face of the deluge of proposed legislation that it is being subjected to, was discussed, the subject being opened by B. E. Pritchard, who presented numerous editorial comments from various leading pharmaceutical journals bearing upon the absurdity of the prominence that is being given to that one particular toxic drug, both by the press and the legislative bodies of many states and the United States.

Mr. Lackey said: The enormous sale all over the country of bichloride tablets for the plainly understood purpose of preventing conception demands some effective legal method for its being stopped. Do we as reputable pharmacists want to put ourselves on record as willful purveyors of the article for that purpose? It is our plain duty to use every means in our power to make it as difficult as possible for the public to obtain these dangerous tablets.

Dr. Saalbach submitted a specimen of leaves of absorbent paper saturated with a solution of bichloride of mercury and so graded as to make it possible to readily prepare a solution of bichloride of a definite percentage, which can be used to replace the widely sold tablets, and thus by curtailing their sale make both criminal and accidental use of the tablet less prevalent. On motion the Branch put itself on record as favoring the universal use of the saturated paper leaf form and as opposed to the continued use of the dangerous tablet form of bichloride of mercury. Dr. Darbaker suggested, and the suggestion was on motion adopted, that the sheriff and coroner be notified of the adoption of the resolution adopted.

Dr. Saalbach submitted a specimen prescription for the purpose of indicating how extremely careless some physicians are concerning the dangerous character of bichloride, as follows:

℞ Hydrag. chlor. corros. one drachm.
Sodii chlor. one ounce.
Div into 12 powders. Sig—Use as directed.

Dr. Koch said, it was for the purpose of trying to reach some wise method to recommend in the securing of proper legislation that will not be too far reaching in character to restrict the distribution of bichloride tablets that had impelled the selection of the subject for discussion before the Branch.

The secretary called attention to the Act passed by the last session of the Pennsylvania legislature, hurriedly drafted and rushed through both houses in five days, that Governor Tener, at his request, had refused to sign, because it was so drastic in its provisions that it would have legislated the drug itself clear off the map, which would be a senseless thing to do.

The Pharmacist and the Law

ABSTRACT OF JUDICIAL DECISIONS.

SELLING WRONG MATERIAL—CONTRIBUTORY NEGLIGENCE. A dairyman sued a druggist for negligently delivering to the plaintiff five pounds of common salt in lieu of five pounds of Epsom salt, as ordered, which, as alleged, proximately caused the death of the plaintiff's cow to which he administered a dose of it—two pounds, as the evidence showed. The defendant pleaded contributory negligence. On appeal from a verdict and judgment for the plaintiff, it was held that whether or not the defendant was guilty of error or negligence in supplying the plaintiff with an article radically different in fact from the article ordered, and whether or not that negligence, if found, proximately produced the untimely demise of the plaintiff's cow, were disputed questions of fact to be determined by the jury. But that the plaintiff was himself guilty of the grossest negligence, which was immediately productive of the animal's death, was a clear conclusion of law from which there was no escape.

There is no confusing similarity in the appearance of common salt and Epsom salt.

Both are household articles in common use, and more or less familiar to all men of ordinary intelligence and experience. Moreover, the plaintiff was a dairyman of long experience, and quite familiar with the use of both articles in the course of his business. He was skilled in the art of bovine healing by a practice of 30 years upon his own animals, and he habitually administered to them Epsom salt for the relief of those digestive disorders to which they were frequently subject. He saw and intimately handled this salt, which was not labeled Epsom salt, and which was in a bag showing on its face that it came from the defendant's "seed and dairy" store, a separate and distinct branch of its business, from which the plaintiff customarily bought his butter salt for use in his dairy. It was not at all like Epsom salt, and on his cross-examination, the plaintiff demonstrated his ability to readily distinguish it from that article.

"The ordinary conduct of rational beings," said the court, "must be governed by common prudence and common sense, and he who fails in this to his own hurt cannot justly charge the ills that follow to the antecedent and remote fault of another, albeit such remote fault supplies the condition without which the injury would not have occurred. The result here complained of was plainly due to the inexcusable carelessness and folly of plaintiff, and to allow him to recover damages from defendant under the circumstances shown would certainly insult the common sense of mankind. The verdict of the jury was contrary to the law and the evidence, and should have been set aside by the trial court on the motion of defendant."

It was also held that the instance of a man who "swallowed a pound of salt in a pint of ale, and died in a few hours, with all the symptoms of irritant poison," read from a medical book, was fundamentally illegal and inadmissible as evidence in the case.—*Gorman-Gamin Drug Co. v. Watkins, Alabama Supreme Court,* 64 *So.* 350.

INTOXICATING LIQUORS—WRONGFUL SALE BY DRUGGISTS—SPECIAL PENALTY. On an agreed statement of facts in proceedings against a druggist for selling liquor without a West Virginia State license as a druggist, it was admitted that the accused had not a state license for the sale of intoxicating liquors; that he sold a person a pint of whiskey; that he was then a licensed druggist, and that the purchaser of the whiskey had no prescription of a physician therefor. The accused maintained that he could not be prosecuted as an ordinary seller of intoxicating liquors without a state license, but only as a druggist, as to whom a lighter penalty is prescribed.

A druggist, said the court, is merely an excepted person under the general law prohibiting sales of intoxicating liquors without a state license. When he does not sell intoxicating liquors in the only way that the exception in his favor permits him to sell them, he is a violator of the general terms of the West Virginia statute which says that no one without a state license shall sell them. When in making a sale a druggist does not comply with the restrictions of the exceptions in his favor, he is simply one selling without a state license. By the exception he may sell alcohol for mechanical or scientific purposes, or alcohol, spirituous liquors, wine, porter, ale, beer, and other intoxicating drinks for medicinal purposes on the prescription of a reputable physician. But if he sells any of them otherwise, unless he had a state license therefor, he brings himself within the general terms of the statute which prescribes that no person without a state license shall sell them. He may then be indicted and proceeded against just as other persons selling without a state license. But the West Virginia Legislature has prescribed a lesser penalty for an unlawful sale of intoxicating liquors by a druggist than for such a sale by an ordinary seller. Code 1906, ch. 32, secs. 3 and 5. Formerly it was not so, but the reverse. State v. Cox, 23 W. Va. 797. Therefore, if the evidence establishes that the accused at the time of the sale was a druggist and unlawfully sold as such, only the lesser penalty imposed for such special offense can be inflicted.—*State v. Wills, West Virginia Supreme Court of Appeals,* 80 *S. E.* 783.

SUB-STATION ACCOUNTS. Marcus Sachs and his son, Simon Sachs, became partners in the drug business. This continued for a number of years when, it appeared, Simon Sachs sold the partnership and formed a corporation, doing the same business as had been done by the partnership. During the partnership Simon Sachs was appointed a deputy clerk for the sale of postal money orders, with a branch station in the firm's drug store. Each day he deposited the moneys re-

ceived from the sale of postal money orders in a bank. The checking account with the bank was in the firm name, but the deposits were made with two deposit slips, one showing the receipts from the sale of postal money orders, and the other the total amount of deposits of the drug store business and of sales of postal money orders. The account was kept by the bank in this manner, the deposits of postal order receipts being kept in a separate account under the heading "Station Receipts." Each day Simon Sachs made a report of the sales of money orders to the postmaster, and attached thereto a check to the postmaster's order on the bank for the money deposited as "Station Receipts" for the period covered by the report.

Marcus Sachs filed a bill alleging misapplication of the partnership funds by Simon Sachs, and obtained the appointment of a receiver of the corporation, who took possession of the funds deposited in the bank about April 12, 1911. Subsequently the postmaster filed a petition, setting forth, among other things, that Sachs made his daily report for April 10, 1911, showing sales of money orders to the extent of $678.84, and delivered a check payable to the postmaster for that sum, dated April 11, and a daily report for April 11 showing sales to the amount of $300.24, and a check for that sum dated April 12; and that, on presentation of these checks to the bank, payment was refused. He prayed for an order that the money represented by the checks be paid. Simon Sachs also presented a petition to the same effect.

At the hearing of the case it appeared that the receiver had taken possession of $494.04 of the money on deposit in the bank. As stated by a witness, the bank had apparently peremptorily taken five or six hundred dollars of the balance of the deposit to apply on some note. The receiver was ordered to pay over to the postmaster the money turned over to him by the bank. There was no mingling of the money deposited from the sale of money orders and from the drug business. The bank kept the former in a separate account, designated as "Station Receipts." The bank's account was, in substance and essence, with the postmaster, and the adoption of a convenient method of checking it out under the firm name did not change the substance of the transaction.—*Sachs v. Sachs*, 181 *Ill. App.*, 296.

IMPLIED WARRANTY OF MANUFACTURE. A manufacturer is liable only to his immediate vendee for breach of an implied warranty as to the merchandise manufactured by him, as his liability depends upon privity of contract; but exceptions exist where injury is caused by something noxious or dangerous, or where the manufacturer practices fraud or deceit, or is negligent with respect to the sale or construction of a thing not immediately dangerous. "Within one of the exceptions is to be found the reason for holding the manufacturer of patent or proprietary medicines to answer at the suit of the ultimate consumer. Direct actions are allowed in such cases because the manufacture of medicine is generally shrouded in mystery, and sometimes, if not generally, they contain poisons which may produce injurious results. They are prepared by the manufacturer for sale and distribution to the general public, and one purchasing them has a right to rely upon the implied obligation of the manufacturer that he will not put in ingredients which if taken in prescribed doses will bring harmful results. Reference may be had to the following cases which sustain, and in which many other cases are cited which sustain, this exception: Thomas v. Winchester, 6 N. Y., 397, 57 Am. Dec. 455; Blood Balm Co. v. Cooper, 83 Ga. 457, 10 S. E. 118; Welser v. Holzman, 33 Wash. 87, 73 Pac. 797, 99 Am. St. Rep. 932."

Another exception, it is now said—the doctrine is comparatively recent—is referable to the modern method of preparing food for use by the consumer, and more general and ever increasing use of prepared food products. A manufacturer of food products under modern conditions, it is held, impliedly warrants his goods when dispensed in original packages, and such warranty is available to all who may be damaged by their use in the legitimate channels of trade, including those who purchase them for resale, as well as the ultimate consumers. The violation of the pure food law by a manufacturer of foods products is evidence of negligence in the preparation and sale of such food, and it is available in a suit by a middleman, as well as by a consumer.—*Mazetti v. Armour & Co., Washington Supreme Court*, 135 *Pac.*, 633.

SALE OF OLEOMARGARINE—SELLING OR GIVING AWAY COLORING MATTER. An inspector of the Agricultural Department purchased from a retail grocer in New York State a

one-pound print of oleomagarine, with which he was given a capsule of coloring matter, conceded to be a harmless vegetable compound. In an appeal from a conviction of a violation of the New York Agricultural Law, the sole question was the validity of Section 41 of the statute, providing that "no person selling any oleaginous substance not made from pure milk or cream of the same as a substitute for butter, shall sell, give away, or deliver any coloring matter" is valid. It was held by the Court of Appeals that the provision was a constitutional and valid enactment within the police power of the State. —*State v. Von Kainpen* (*decided March* 3, 1914).

Obituaries and Memorials

Persons having information of the death of members of the A. Ph. A. are requested to send the same promptly to J. W. England, 415 N. 33d St., Philadelphia, Pa. Information as to the age, activities in pharmacy, family, etc., of the deceased should be as complete as possible. When convenient a cabinet photograph should accompany data.

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JAMES G. STEELE.

James Gordon Steele, pioneer of California and leader in pharmacy on the Pacific Coast, died at his home in San Francisco on Monday, February 2, 1914, at the age of 76 years and 38 days. His end was peaceful and wholly unexpected. On the morning of the second of February Mr. Steele arose cheerful and happy as usual. The day being beautiful, he took a long walk, returning refreshed, even expressing a desire to go for another stroll, but acting on the suggestion of his wife, he took a book on music, sat down in a chair, and when Mrs. Steele entered the room a few minutes later she found him dead, head slightly inclined, book still in his hands. Remarkably enough, Mr. Steele wrote his autobiography two weeks before his death, a portion of which is used in the preparation of this sketch.

Mr. Steele was born in Boston, Mass., December 25, 1838. He completed the studies of the grammar schools, and two years of high school. He came to California at the age of 15 and entered the employ of George C. Shreve and later that of his uncle, Wm. W. Keith. He proved a trustworthy helper and Mr. Keith placed him in charge of one of his drug stores. He studied chemistry under Dr. Raymond, who had taught chemistry in the Cincinnati College of Pharmacy, and botany under Dr. Kellogg, the well-known curator and librarian of the California Academy of Sciences.

Mr. Steele was largely instrumental in organizing the California Pharmaceutical Socity in the year 1868. In 1878 he gave up the retail drug business and devoted himself to supplying the Eastern and European market with California crude drugs, but in 1880 he again opened a retail store largely devoted to prescription work. In 1895 he was made city chemist of San Francisco, which position he held for two years. He became a member of the American Pharmaceutical Association in 1859, in which organization he was always active and contributed several papers to the proceedings, one on "Grindelia robusta" and one on the "Drug Market of San Francisco," which also contained a list of California medicinal plants; another paper was on "The Pines of California."

Mr. Steele was also an active member in the newly organized California Pharmaceutical Association, attending its meetings and contributing several pages of historical interest. A very full history of the California College of Pharmacy was completed shortly before his death. When the old California Pharmaceutical Society decided to establish a college of pharmacy in 1874, Mr. Steele, with W. T. Wenzell, W. M. Searby, J. W. Forbes, John Calvert, Mr. Simpson and Mr. Mayhew, were appointed a committee with power to incorporate such a college, becoming the first trustees of the California College of Pharmacy.

Mr. Steele was a most enthusiastic botanist, devoting much time to the study of the flora of California. In 1876 he sent 50 different species of California medicinal plants to the Philadelphia College of Pharmacy, at which time his intimate friend, Prof. Maisch, was instructor in materia medica in said college. Mr. Steele was essentially a student of books, of nature, of people. He was possessed of a most genial nature and a kindly disposition. He made many warm friends. His favorite author was Shakespeare, from whom he quoted freely. His favorite recreation was music, being a performer and composer of