THE PHARMACIST AND THE LAW.

FIRE INSURANCE RATING LAWS.

PHARMACISTS URGED TO WATCH INSURANCE RATING LEGISLATION—UNDESIRABLE BILLS STIFLE COMPETITION.

BY FRANK H. FREERICKS.

The suit of the American Druggists' Fire Insurance Company against the Commonwealth of Pennsylvania and its Insurance Commissioner forcibly brings to the public attention a legislative activity of rather recent origin. Curiously enough, this legislation is designed by its early supporters and advocates to stifle all competition among legitimate and substantial fire insurance companies, and yet it has received a limited measure of public support, doubtless due to the complexities of the fire insurance business and to the lack of its real understanding by the public, and even by many public officials. . . .

The fundamental error found in all fire insurance rating legislation is that those who would truly serve the public by advocating it do not understand that single insurance companies cannot afford the expense of making their own rates. As a consequence, every rating law now existing provides that insurance companies may make their own rates, when as a matter of fact such is a practical impossibility, and, while the understanding prevails that competitive conditions are preserved, quite the contrary is true, and all of the insurance companies are forced to adopt the rates of the Underwriter Boards and Rating Bureaus, which are controlled by the large board companies. It is only where the law provides, in addition, that insurance companies may file uniform reduction in bureau rates that competitive conditions are preserved, however, without any real influence to reduce rates of so-called board companies. The feature which would tend to preserve competitive conditions is the one to find within the last few years special attention, and in order to be sure that there can be no competition at all the Pennsylvania law and other similar laws provide that insurance companies must abide by the rules and regulations which the Underwriter Boards and Rating Bureaus may make. Of course, the first rule and regulation which such Underwriter Boards and Rating Bureaus have adopted is that no company having their service, or seeking to secure their service, may make any reductions in rates as fixed by them.

The Pennsylvania Insurance Rating Law has placed every property owner in that state at the mercy of the Underwriter Boards which there exist. Not only are all of the reliable capital stock companies forced under it to charge the rates as fixed by said Underwriter Boards, but in order to make sure that nothing shall hinder the organized insurance interests in that respect, the law actually in specific terms permits agreements among insurance companies, so that, while heretofore in case of wrongful combination and exorbitant rates they might have been charged with conspiracy, the law has taken away even this last protection of the public welfare. It is not possible to conceive of legislation apt to be of greater harm to the public interests, and yet it has been secured for the ostensible purpose of serving the public welfare. It is to be hoped that this sham will be torn from the legislation when it finds its hearing in the suit now pending, and then, no doubt, further efforts along that line will have been successfully checked. Meanwhile it will be quite important for the business interests of the country to watch the insurance rating legislation which may be proposed in their respective states. They may understand fully that such legislation, even of the best kind, will never result in reducing premium charges, but the greatest attention should be given to the feature which indirectly means to stifle all competition. Any fire insurance rating law which does not provide that Rating Bureaus or Underwriting Boards shall make no rules and regulations to prevent uniform reduction in rates by the separate companies having their service is inherently bad, and inevitably results in stifling all competition among reliable insurance companies.

COCA-COLA CASE REMANDED TO LOWER COURT FOR ACTION.

United States Supreme Court, by Justice Hughes, reversed the lower court decision as to misbranding and finds that the lower court erred in directing a decision instead of sending case to the jury.

The coca-cola case originated in Chattanooga, when the Government seized 40 barrels and 20 kegs of coca-cola on the ground that it was adulterated and misbranded. The

court directed that the case be again tried under an interpretation as to the eligibility of evidence in connection with what is termed adulterated food. The case originally alleged misbranding in that the seized shipment was found to contain caffeine, but the Supreme Court did not hear the case on its merits and simply reversed the decision of the lower court and remanded it for further consideration on the ground that the lower court erred in directing a verdict in favor of the company instead of letting the case go to the jury. The lower court held that the caffeine was not an "added ingredient," the case being brought under the Pure Food and Drugs Act.

The following are extracts from the decision:

We are not now dealing with the question whether the caffeine did, or might, render the article in question injurious; that is a separate inquiry. The fundamental contention of the claimant, as we have seen, is that a constituent of a food product having a distinctive name cannot be an "added" ingredient. In such case, the standard is said to be the food product itself which the name designates. It must be, it is urged, this "finished product" that is "adulterated." In that view, there would seem to be no escape from the conclusion that however poisonous or deleterious the introduced ingredient might be, and however injurious its effect, if it be made a constituent of a product having its own distinctive name it is not within the provision. If this were so, the statute would be reduced to an absurdity. Manufacturers would be free, for example, to put arsenic or strychnine or other poisonous or deleterious ingredients with an unquestioned injurious effect into compound articles of food, provided the compound were made according to formula and sold under some fanciful name which would be distinctive. . . .

In the present case we are of opinion that it could not be said as matter of law that the name was not primarily descriptive of a compound with coca and cola ingredients, as charged. Nor is there basis for the conclusion that the designation had attained a secondary meaning as the name of a compound from which either coca or cola ingredients were known to be absent; the claimant has always insisted, and now insists, that its product contains both. But if the name was found to be descriptive, as charged, there was clearly a conflict of evidence with respect to the presence of any coca ingredient. We conclude that the court erred in directing a verdict on the second count.

The judgment is reversed and the cause is remanded for further proceedings in conformity with this opinion.

UNIFORM PRICE MEASURES.

Hearings have been given by Committee on Interstate Commerce of the House to representatives of the drug trade on the Stephens-Ashurst resale price maintenance bill. There still is much uncertainty regarding final result, notwithstanding that the United States Chamber of Commerce and the commercial bodies affiliated with that organization have voted with great unanimity in favor of legislation based upon the idea of the maintenance of resale prices.

Senator W. E. Borah, of Idaho, has added a provision to the Stephens-Ashurst measure providing that the Federal Trade Commission of its own initiative may, or upon a petition in writing by a citizen filed with such commission shall, fix and establish a fair and reasonable price at which any article coming under the terms of this act shall be sold, and shall for that purpose have access to all records, books, papers, accounts, secret processes and formulas of the proprietor, manufacturer or producer of such article which said commission shall deem necessary in order to enable it to fix and establish such price; that a price once fixed and established shall not be raised or increased without authority of the commission so to do; that any one increasing the price over that fixed by the commission shall be punished by a fine of not more than $1000 or imprisonment not less than six months, or by both such fine and imprisonment.

APPLICATION FOR REGISTRATION UNDER HARRISON LAW.

Every person, firm or corporation making application for registration must, at the time of applying for such registration, prepare in duplicate an inventory of all narcotic drugs and preparations (other than those exempted under the provisions of section 6 of the act, as defined in T. D. 2309) on hand at the date of application for registration. Where, however, a registered person, at some fixed date annually, takes a stock inventory, either at the close of the business fiscal year or of the calendar year, such inventory in dupli-

cate, showing the quantity and names of the narcotic drugs and preparations on hand on the date next preceding the date of application for registration, may be filed in lieu of the annual inventory required at time of registration. The original inventory must be kept on file with previous inventories by the maker and the duplicate forwarded to the collector of internal revenue. No special form of inventory is required, but it must clearly set forth the name and quantity of each kind of narcotic drug, preparation or remedy, and be verified by oath or affirmation executed in conformity with law. Collectors will refuse a registration number and special tax stamp to an applicant who fails to furnish annually, at or before the date of registration, a duplicate of such inventory. Narcotic drugs and preparations must at all times be segregated from the general stock of drugs and medicines, and should be kept under lock and key to prevent theft. Where losses by theft or in transit are reported, a sworn statement of the facts, a list of the lost narcotic drugs, and preparations, and, in the case of theft, evidence that the local authorities were notified, must be filed immediately with the collector.

WAR DEPARTMENT.

List of changes of station covering period ending May 31, 1916, in the cases of Sergeants First Class and Sergeants, Hospital Corps, U. S. A.

SERGEANTS FIRST CLASS.

Charles N. Shaw, from Ft. Porter, to Ft. Logan.

Hugo E. Lacher, from Ft. H. G. Wright, to Jackson Barracks.

Albert O. Miller, from Ft. Williams, to the Hawaiian Department, on the June transport.

Henry Ash, from Ft. Adams, to the Hawaiian Department, on the June transport.

Benjamin F. Tyler, from Ft. Bayard, to Ft. Sill.

Will G. Butler, from Ft. Mott, to the Southern Department, for assignment to station.

Arthur E. Brown, from Ft. Caswell, to the Southern Department, for assignment to station.

Michael J. Hogan, from Madison Barracks, to the Southern Department, for assignment.

Samuel H. Leopold, from Ft. Rosecrans, to the Southern Department, for assignment.

Edgar T. Hitch, from the Philippines Department, to Ft. Bayard.

Walter L. Phares, from the Philippines Department, to Ft. Bayard.

Joseph B. Ehrenwerth, from the Philippines Department, to Ft. Barry.

Francis Moore, from Ft. George Wright, to the Southern Department, for assignment.

George J. Shull, from Ft. Thomas, to the Letterman General Hospital.

SERGEANTS.

Joseph P. Mills, from Ft. Williams, to the Attd. Surgeons' Office, Washington, D. C.

Arthur A. White, from Ft. Ontario, to Ft. Porter.

Edgar H. Booher, from Ft. Crockett, to the Southern Department, for assignment.

Emil Ellingsen, from Ft. Myer, Va., to the Southern Department, for assignment.

Clarence K. Aikin, from Ft. Barrancas, to the Southern Department, for assignment.

Wellie L. Turner, from Ft. Moultrie, to the Southern Department, for assignment.

Knut G. Tallqvist, from Ft. Myer, to the Southern Department, for assignment.

Arthur F. Bade, from Ft. H. G. Wright, to the Southern Department, for assignment.

Adolph Gerstenzang, from Ft. Hancock, to the Southern Department, for assignment.

William J. Maney, from Ft. Totten, to the Southern Department, for assignment.

Horace J. Caterer, from Ft. Jay, to the Southern Department, for assignment.

Robert W. Leddy, from Ft. Ontario, to the Southern Department, for assignment.

Joseph M. Bistowish, from Madison Barracks, to the Southern Department, for assignment.

Richard J. Howland, from Ft. Strong, to the Southern Department, for assignment.

Harry C. Bauder, from Ft. Monroe, to the Southern Department, for assignment.

James J. Johnson, from Ft. Terry, to the Southern Department, for assignment.

Charles W. Hurley, from Ft. Hamilton, to the Southern Department, for assignment.

Edward H. Krog, from Plattsburg Barracks, to the Southern Department, for assignment.

Omer A. Couture, from Plattsburg Bar-