

DRUGGISTS.

would not be justified. Although no label marked 'poison' was put upon the phial, and granting that by such omission the defendant was guilty of misdemeanour and liable to the penalty of the criminal law (under the statute of the State), still that fact does not make him answerable to the customer injured, or to his representative in case of his death, for either a negligent or wrongful act, when towards that customer he was guilty of neither since he fairly and fully warned him of all and more than could have been made known by the authorized label. . . . If the warning was in truth given, if the deceased was cautioned that the medicine sold was a strong poison, and but ten or twelve drops must be taken; he had all the knowledge and all the warning that the label could have given, and could not disregard it, and then charge the consequences of his own negligent reckless act upon the seller of the poison. But if no such warning was given, its omission was negligence, for the results of which the vendor was liable both at common law and by force of the statute." But the court considered that the clerk being himself the one who had been negligent stood in a position to provoke suspicion, arouse doubt and justify watchful and rigid criticism, and that this joined with the conduct of the deceased developed a question of fact rather than of law, and that the court below was right in saying that the case should have been submitted to the jury. (*Wohlfart v. Becker*, 27 Hun. in Ct. of Appeals, Central L. J., July 20, 1883.)

Under the Ontario Pharmacy Act no one can sell certain poisons named without having the word "Poison," and the name of the article distinctly labelled upon the package; and if the sale is by retail, the name of the proprietor of the establishment where it is sold, and the address must also be on the label. (R. S. O., c. 145, sec. 27.)

In Georgia it was held, that where a druggist in good faith recommended the prescription of another person to the owner of a sick horse, who thereupon ordered him to put it up, and paid for it, the owner had no cause of action because the medicine had injured his horse, as the stuff was properly prepared according to the prescription. (*Ray v. Burbank*, 6 Ga. 505.)

In England chemists and druggists are liable to the heavy penalty of £500 if they sell to brewers or dealers in beer anything to be used as a substitute for malt; they are also liable for adulterating or selling any adulterated medicine, and on a second offence of this kind the name of the offender, his abode, and his crime may be published in the newspapers at his expense. (56 Geo. III. c. 58, s. 3; 31 and 32 Vict. c. 121, s. 24; 23 and 24 Vict. c. 84, 30.)

NOTES OF CANADIAN CASES.

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LAW SOCIETY.

CHANCERY DIVISION.

Proudfoot, J.]

[January 9.

PETERBOROUGH REAL ESTATE INVEST-
MENT CO. V. IRETON.

*Damages—Judgment recovered—Measure of dam-
ages—Evidence.*

*Appeal from Master's Report—Measure of
damages.*

The Plaintiff's company brought their action on a mortgage against I., the assignee of the Equity of redemption, and claimed damages for making a distress at the request of I., on F. the tenant of the premises, F. having recovered a judgment for \$461.60 against the Co. in respect of such distress. At the hearing, the fact of I. having made such request was found against him and it was referred to the Master at Peterborough to take the usual mortgage