

done great work. It has served its purpose admirably and I think in the next five years will complete what it set out to do, and I hope it will be of greater help to the different parts of the organization which wish to make their laws more stringent and more useful. Each of us have ideas that should constitute our laws, but the trouble is that we have local ideas and we usually have a local law. I have found that in cases of court that the citing of a precedent established in another state is a very great help in clinching the case as the judge and jury usually use the precedent set. I might say that I have also found out that the enforcement must be tempered and not too strict as it is primarily for the protection of the public and of course it reverts back very favorably to the pharmacists.

"At one time, three years ago, I was Secretary of our Board and thought maybe we had better 'clean-up our own back yard' first. We made an inspection of every drug store in Kansas and we notified druggists as to where they were making a violation and notified them that the inspectors would call on them in two or three weeks. We requested them to send in a notice to the Secretary of the Board that this violation had been eliminated and it would not be continued. Of course, in a great many instances we found that their reply was just like the advertising of many patent medicines, it was 'baloney.' In some cases warrants were sworn out and we received 100% convictions. We do not believe convictions are the way to handle this, but with certain people this is necessary. After 'the clean-up in our own back yard' we had very little trouble with others. We treated everybody alike. I was condemned a lot at first and lost many of my friends, who thought I was picking on them. After they found they were receiving the same treatment as anyone else they have become my very good friends again and have given me much help. We made some mistakes in our law enforcement by trying to be over zealous. We tried to stop the sale of paregoric by unregistered pharmacists and only by prescription of physicians. We, later, found out that there was a legal use for a 2-oz. bottle of paregoric and found that we had made a mistake in allowing it to be sold only by a physician's prescription; as we had given them something these should not have left our control."

The speaker also described how they handled their court cases and said they did not even take a case into court unless they were positive they could get a conviction on it. They usually got an opinion from the Attorney General, and had this opinion read in the court the case was being tried or else had an Asst. Attorney General present. He also said that to have the proper evidence that prescriptions were being filled by a person not under the direct supervision of a registered pharmacist it was necessary that the inspector catch him in the act and actually see that this was done or else the evidence would not stand up in court.

Hugo H. Schaefer, in the absence of Mr. Mather, presented the subject, "Restricting the Practice of Pharmacy to Proper Persons." The subject was then discussed by different members, until 12:15 when the Conference adjourned.

Thursday, August 31, 1933.

At eight P.M. a joint session was held in the Pompeian Room with the Section on Education and Legislation. The joint session was well attended and it was urged the annual joint sessions be continued.

Friday, September 1, 1933.

The Conference convened at 2:00 P.M. in the Colonial Room with the following present: Messrs. Fischelis of New Jersey, Costello of North Dakota, Mr. and Mrs. Bruce Philip of California, Henry, Durham and Borniac of Michigan, Heine of Texas, Hugo H. Schaefer and F. C. A. Schaefer of New York, Monias of Illinois, King and Milne of Kansas, Teeters of Iowa, Rothrock of Indiana, Swain of Maryland, King and Ford of Ohio.

Chairman Swain asked for the presentation of the paper of Mr. Woodside of Pennsylvania on the subject "A Change in the Law Enforcement Procedure in Pennsylvania." In the absence of Mr. Woodside, the paper was presented by Hugo H. Schaefer of New York. Upon motion of Mr. Henry seconded by Mr. Schaefer, the paper was accepted and discussed.

A NEW SYSTEM OF LAW ENFORCEMENT IN PENNSYLVANIA.

BY JOHN M. WOODSIDE.*

New deals in governmental procedure are so common at present that it seemed reasonable to expect, in some states at least, a change in the manner of enforcing the pharmacy laws.

* Enforcement executive, Pennsylvania Board of Pharmacy.

When changes have taken place they have been due to one of two reasons, either dissatisfaction with the former system or they were prompted by an economic situation.

No administrative agency is free of criticism of its enforcement of laws coming within its jurisdiction and no new system will eliminate this entirely for no law beginning with the Ten Commandments inscribed on the tables of stone by Moses, have been enforced to the satisfaction of every one.

In Pennsylvania the Board has had the usual amount of dissatisfaction but the change in the manner of enforcing the Pharmacy Laws was brought about through an economic reason. The change did not originate with the Board but was instigated within the Department of Public Instruction in which the Board of Pharmacy and all other professional Boards are units. Previous to September 1932, the Board of Pharmacy was allotted two agents who devoted all of their time to investigation work for it. All the other professional groups were allotted special agents.

There were times, of course, when a complaint or other matter which required investigation, would be received by two or possibly three professional boards from the same territory at or near the same time. Each Board would dispatch its own agent. Each Board was allotted a given amount of money for law enforcement, by the legislature each biennium and the expense thus incurred was paid out of its funds set aside for it.

The Department believed that some system should be devised that would eliminate this duplication of expense. This was brought about by the creation of the Law Enforcement Bureau within the Department and all agents were merged under the unified control of this bureau. Agents are no longer attached to a particular Board but are now classified as agents of the Department of Public Instruction. The expense incurred by the agents is paid out of the administrative fund.

The state is divided into districts and each inspector assigned a given district in which he makes all investigation regardless of character. The investigations include those for the Board of Pharmacy, Medical Licensure, Dental, Undertakers, Engineers, Accounting, Architects, Optometry, Barbers, etc.

Complaints are sent to the Bureau which distributes them to the agents. Reports of all investigations are sent to the respective Boards and to the bureau. The prosecutions are conducted by the bureau but only when advised by the Board that this is warranted. No action is taken against an individual until after the matter has first been considered by the Board or its enforcement executive.

The Board does not believe that this system is perfect at the present time but believes it is capable of improvement. From an economical standpoint it is based upon sound reasoning.

When first proposed, the Boards administering the laws applying to all Healing Arts, endeavored to have a separate unit to be known as the Medical Arts Unit, allotted for their particular use but were unsuccessful. At the present time, ten agents are employed by the Department and as a part of their time is given to the work of the Board of Pharmacy, it has enabled the Board to increase the scope of its field work.

The work, naturally, has not always been satisfactory. With men untrained in the work, it does not seem reasonable to expect that it would be. During the year in which the system has been in force, there has been distinct improvement. Some agents have, of course, grasped the work more quickly than others and perform more satisfactorily.

The principal criticism which reaches the Board from the drug trade is that the agents are not pharmacists. It is true they are not with one exception, one of the Board's special agents being a pharmacist. I presume that barbers, accountants, engineers, etc., respectively, make complaints of a similar character.

The Pennsylvania Board is interested in this question regarding the employment of pharmacist investigators by the Boards in other states. It does not, of course, have control over the employment of the agents at the present time. One of its finest agents who has been in its employ for almost fifteen years is not a pharmacist.

It is true that in some states the Board of Pharmacy does not enforce the Pharmacy Laws. I understand it does not in the District of Columbia and in many states the services of a detective agency is frequently employed. I believe, too, that there are some members of Boards of Pharmacy who believe the Board should be relieved of that duty. In a survey taken in a southern

state recently, it was recommended that the enforcement should be entrusted to the Department of Agriculture, and that investigations should be made by its agents.

Possibly the most striking example of non-technical supervision which might be cited in support of the employment of non-pharmacist agents is that which is required by the Federal Constitution *viz.*, that the secretary of the Army and Navy be civilians. More recently, should it not be mentioned that at present the entire business structure of the nation, from the largest to the smallest, is under the supervision of an Army General.

In both of these instances the responsible administrator is surrounded with technical advisers. The situation under the Pennsylvania system as it applies to the Law enforcement in which we are interested is quite the reverse, the agent being required to secure the information and forward it to the Board which is composed of technically qualified persons.

In the absence of Mr. Parr, the subject of "Law Enforcement in Michigan" was discussed by Mr. Henry of Michigan.

At this time, the Chairman appointed a nominating committee consisting of R. P. Fischelis, *Chairman*, Mr. Costello and Mr. Heine.

Dr. Fischelis, of New Jersey, spoke upon the "Importance of Synonyms in the Enforcement of Drug Standards and Their Relationship to the Enforcement of Pharmacy Laws." He recommended that the Conference reaffirm their stand on synonyms to the U. S. P. Revision Committee. Upon motion of Mr. Henry, seconded by Mr. Durham, the recommendations of Dr. Fischelis were passed on to the U. S. P. Revision Committee for inclusion in the new revision.

The following resolution was presented to the Conference:

Resolved, That the N. A. B. P. request the Conference of Pharmaceutical Law Enforcement Officials to determine ways and means of providing more adequately for the protection of the public in safeguarding all functions that have to do with prescription service from the time a prescription is written for a patient to the ultimate delivery of the finished medicine, so as to assure a continuity of adequate supervision in this important health function.

It was moved by Dr. Fischelis, seconded by Mr. Schaefer, that the Chairman appoint a Committee to study the resolution and report. The question was discussed by Messrs. Henry, Schaefer, Fischelis and Swain, and adopted.

Chairman Swain next referred to the proposed amendment to the National Foods and Drug Act and Narcotic Legislation; it was discussed by Messrs. Henry, A. H. King and H. Schaefer.

The subject of the "Proper Enforcement of Fair Practice Codes for the Drug Industry under the NRA," was discussed by Messrs. Swain, Schaefer and Heine.

The Nominating Committee at this time made the following report. For *Chairman*, R. L. Swain of Maryland; *Secretary and Treasurer*, M. N. Ford of Ohio; for *Delegate to the House of Delegates*, F. C. A. Schaefer of New York. Upon motion of Mr. King, seconded by Mr. Henry, the report was adopted and the officers declared elected by unanimous vote.

Upon motion, duly seconded, the Conference adjourned.

R. L. SWAIN, *Chairman*.

M. N. FORD, *Secretary-Treasurer*.

COMMITTEES OF THE CONFERENCE OF PHARMACEUTICAL LAW ENFORCEMENT OFFICIALS.

Chairman R. L. Swain has appointed the following committees of the Conference of Pharmaceutical Law Enforcement officials: **Finance**, *Chairman*, Frederick C. A. Schaefer, New York; Rowland Jones, South Dakota; Wesley MacChilds, Kansas; S. M. Hankins, Florida; Hugo H. Schaefer, New York; **Committee to accurately define the terms, "patent medicine" and "proprietary medicine:"** *Chairman*, A. L. I. Winne, Virginia; George W. Mather, New York; John M. Woodside, Pennsylvania; M. N. Ford, Ohio; R. P. Fischelis, New Jersey; Robert L. Swain, Maryland.

A LEGISLATIVE REPORT.

Presented by Fayette H. Philip in the House of Delegates, A. Ph. A. as a minority report.¹

"To A. V. Burdine, *Chairman*:

"In presenting this minority report I am not disagreeing with the majority report of the chairman of the Committee, except to this extent. That the report dealt wholly with the work of those outside of our appointed committee and not of the committee's work, while mine deals with actual work of at least one member of the Committee.

"In the first place my appointment to the Committee was made at the time that I was engaged in securing for the drug stores of the United States an exemption ruling from the Tax Division of the Government. It was the day of the Ground Breaking Ceremony for the Institute of Pharmacy Building in Washington, D. C., that I was shown an article in a *Drug Journal*, which stated that prescriptions which contained certain ingredients would be taxed under the new excise tax laws.

"Even though I was told that it was too late to change the ruling, I said it is never too late to right a wrong, and that as I saw the privileges of my profession, they were beyond the tax laws. Briefly stated the arguments were, that when a physician wrote a prescription, its ingredients could not be divulged to his patient, nor separated out for taxing.

"Fellow druggists, the horrors that stared the profession of pharmacy in the face appalled me. I can conceive of no ruling that would have caused more worry to pharmacists. Within an hour I dispatched a letter to the Department and organized a force to combat the evil. Within three days the danger was past, although it was about three months before the red tape of the Government machinery unwound sufficiently that the druggists were officially notified that there would be no tax on prescriptions.

"The personnel who accompanied me to the offices of the proper Government officials were, W. Bruce Philip, Robert L. Swain, Samuel L. Hilton, Dr. Simmons, E. F. Kelly and C. P. Frailey.

"It was not a simple thing, I assure you, but suffice it to say that in the nick of time our protest was entered and justice was secured.

A. RETAIL DRUG CODE.

"There are several important things concerning the Retail Druggist Code, that it is meet that this gathering of pharmacists should be informed about.

"For three days, in August 1933, a general retailer's code was argued before Administrator Whiteside, in Washington. At the end of the session a Code was written which the proper representative of the respective industries signed. I, as your representative, sat through the session and was conversant with the rules that were given to be followed in drawing up our own Code. I am sorry to report that during much of the time I was the only druggist present. The lack of active participation by druggists in the activities which vitally concern them surprised me.

"There are sixty odd thousand retail druggists in the United States and right now every one of them should be awake to the opportunities and dangers of the situation. Never was it more important for them to be organized and individually awake. Men and women of the profession, this is no mere committee report, this is a stirring appeal to rouse you. You can go around and pat yourselves on the back, because the President of the United States exempted professional pharmacists from the labor provisions of the Code, but that won't get you anywhere except perhaps, in your own estimation.

"The profession of pharmacy is practiced by those who are skilled in the art, and by those who use it as a trade. It does not in any way tear down the profession of pharmacy in admitting that those who practice it work certain hours in a drug store, but it does bruise its sensibilities to have the younger generation of pharmacists rant in public about their rights. On one hand there is the fact that the greater number of pharmacists are clerks, while on the other the smaller number are proprietors. Each is interested in the lives of the citizens of the nation and for long hours and short pay serve behind drug counters, seven days in each week. Can these facts be ignored? Why should they be?

¹ See Report of Committee on Legislation, page 1047, October JOURNAL.

"No one was in a better position perhaps than I was to present definite statistics as to what had already been done to uphold working hours in pharmacy and I beg leave to show you the background that I worked from. In California in 1910 a very rigid eight-hour law for women was enacted. Physicians and professional women were exempted from its rulings. Trained nurses in hospitals desired to be exempted and presented a test case. Unfortunately a woman pharmacist, Miss Ethel E. Nelson, Merrit Hospital in Oakland, was the person used to try to break the 8-hour law. The case was lost in both the local courts and in the Supreme Court of the United States.

"Nevertheless, women pharmacists in California working in drug stores were being considered by the Labor Commissioner as professional women and not to be under the 8-hour labor law, unless they were working in dispensaries in hospitals. Otherwise they were considered under the 9-hour pharmacy law, which the drug clerks had enacted.

"It is necessary to tell that the 9-hour law made by drug clerks had been broken down in a test case, prosecuted by the Druggists' Association of Southern California in conjunction with the California Pharmaceutical Association, but also I must say that there were places where it would still be applicable. Therefore every class of druggists was active in sponsoring a new law. It was just at this critical stage of affairs that a woman pharmacist who was working over eight hours on the prescription and drug counters of the most ethical prescription drug store in San Francisco was arrested for working over eight hours.

"At a conference with a new Labor Commissioner, he stated that even though his predecessor had considered women pharmacists outside the Eight-Hour Labor Law, still he would not make such a ruling; however, he said that he would hold the case in abeyance until we women pharmacists could be declared under the pharmacy law.

"When the legislature was to convene and acts relative to the Eight-Hour Law were to be introduced, I was chairman of the Legislative Committee of the California Pharmaceutical Association. I rewrote the law, and I went to Sacramento and after five weeks of battle enacted the present pharmacy law, which allows any pharmacist, man or woman, to work 128 hours in any two consecutive weeks, but to work only on thirteen days in such two weeks, etc.

"It was some ten or twelve years ago that the California law was enacted, and after organized union labor had fought the passage of the bill every step of the way. Thereafter, at each session of the legislature they tried to include women pharmacists in a general labor law. Finally the Attorney General made a very definite ruling upon the subject. I will couch it only in layman's words, which were to the effect that when the Legislature, through its two respective bodies of representatives, enacted a law regarding women pharmacists, they intended and did classify them as professional and that a general law would not affect them. The written ruling is a treasured possession of the Women—the Women's Pharmaceutical Association of the Pacific Coast.

"Recently, at the Code hearings, when the drug clerks of New York, Baltimore, and other places said such disparaging things about pharmacy, as a profession I defended it by presenting the wording of the California law, which law has been acceptable and workable to both the professional and commercial interests. In its enforcement pharmacy and pharmacists were adjudged professional by the highest of law authorities in California."

THE WORLD'S FAIR AT CHICAGO IN 1934.

Tile and Till for March has an interesting story of Pharmacy's part at the Century of Progress and its management, ably carried on under the direction of Chairman H. C. Christensen, Secretary Frank B. Kirby and Miss Esther Barney, who had charge of the exhibit. Pharmacy's exhibit will be continued with the

reopening of the Fair, on June 1st, introducing a new color scheme, greatly enlarged and varied new lighting effects and important rearrangement of the grounds to make room for new buildings and exhibits.

Alf. W. Pauley was a speaker at the mass meeting of Chicago drugdom on March 20th. George L. Secord presided over the sessions.