LEGAL AND LEGISLATIVE.

REPORT OF THE COUNCIL ON PHARMACY AND CHEMISTRY ON REVISION OF THE FOOD AND DRUGS ACT IN SPECIAL REFERENCE TO DRUGS.

The following report, published in the *Journal of the American Medical Association* of January 12th, is reprinted here as a source of information on the views endorsed by the Board of Trustees of the American Medical Association on Federal food and drug legislation.

"1. To include provisions for so regulating all forms of drug advertising that it shall be truthful in statement and not deceptive by implication; the terms 'advertising' to include all ways and means of bringing articles to the attention of the public for commercial purposes.

"2. To provide that responsibility for advertising rest with the individual or firm issuing it unless such individual or firm produces a guaranty as to the truthfulness of the advertising claims, and the guarantor is amenable to the terms of the act, in which case the guarantor shall be responsible.

"3. To provide that the active ingredients and the amounts or proportions thereof in all mixed drug products not listed in official compendiums (U. S. P. and N. F.) be disclosed on the labels of such products and in the advertising of them.

"4. To prohibit the sale of drugs and drug preparations under names recognized in official compendiums (U. S. P. and N. F.), unless such drugs and drug preparations meet the standards and specifications laid down in such compendiums.

"5. To require suitable declaration on labels and in advertising of any and all habit-forming drugs, whether sold singly or in mixtures, together with explicit warning that such may be habit forming; provided that such declaration be not required in the case of drugs or mixtures of drugs dispensed on prescription, and which are to be used according to directions of a physician.

"6. To provide for official announcement by the government of such drugs as may now be held, or in the future be determined, to be habit forming.

"7. To prohibit the mention of disease names on the label of drugs or drug preparations, or in advertising thereof, unless such drug or drug preparation is a cure for the disease named; or unless such drug or drug preparation is a palliative and the nature of the palliative action is stated.

"8. To extend the provision of the law to include cosmetics and the advertising thereof, the term 'cosmetics' to include all substances and preparations intended for cleansing, altering the appearance or promoting the attractiveness of the person, unmedicated soaps excepted.

"9. To extend the scope of the term 'drug' to include devices, substances and preparations intended for the treatment of disease and all devices and all substances and preparations, other than food, intended to affect the structure or any function of the body; this provision to be for purposes of the act and not to regulate legalized practice of the healing art.

"10. To prohibit the addition of drugs to foods and confections intended or offered for general human consumption, but not to prohibit such addition to, or other modification of, foods and confections intended or offered to meet special nutritional requirements or dietary needs, provided the label and advertising of products so treated plainly declare the character and purpose of such modifications.

"11. To require that testimonials and opinions used in advertising of drugs and drug preparations be accompanied by the name and address of the writers thereof, and to consider such testimonials and opinions as advertising claims of the advertiser.

"12. To provide by permit or license or other means for government control over the sale and distribution of such drugs and therapeutic agents as cannot be adequately controlled by gross inspection or chemical examination of the finished product, except that this shall not apply to the provisions of the Serums and Vaccines Act of 1902 and amendment thereto.

"13. To require each importer, manufacturer, jobber and retailer engaged in interstate commerce in drugs and therapeutic agents to register with the government his name, place of business and the character of the business in which he is engaged or proposes to engage; such registration to be granted without cost to the applicant and accepted only on evidence showing adequacy of plant, equipment and personnel for the business proposed.

"14. To provide for coöperation between federal and state governments in the enforcement of food and drug laws in their respective

jurisdictions on a plan similar to that provided in 'An Act to Create in the Treasury Department a Bureau of Narcotics, and for Other Purposes, approved June 14, 1930.'

"15. To require labels on drugs and drug preparations to bear the name and address of the manufacturer, seller or distributor; and to bear a statement of the net weight or volume of contents.

"16. To provide for more adequate penalties, which will be commensurate with the seriousness of violations."

FOOD AND DRUG BILLS IN CONGRESS.

There are now three bills in Congress which seek to amend or displace the present Food and Drugs Act, and there is a possibility for the presentation of others.

Senator Royal S. Copeland has introduced S. 5 and this has been referred to the Committee on Commerce.

Representative James M. Mead, of Buffalo, N. Y., has presented H. R. 3972 and this has been referred to the Committee on Interstate and Foreign Commerce.

The *Druggists Circular* states that the Mead bill differs from the Copeland and McCarran bills in the senate in three major particulars: (1) It would amend the existing act, rather than write a wholly new law; (2) its definitive provisions are specific, rather than a greater or less delegation of authority to the Secretary of Agriculture; (3) it places control of advertising in the hands of the Federal Trade Commission, with injunctive relief in emergency.

Senator Pat McCarran of Nevada has introduced S. 580 which embodies the revision plan of Charles Wesley Dunn.

The numbers of the bills are given so that officers and members of legislative committees can apply to their Senators and Representatives for copies of the bills.

The president has not endorsed any of the bills, but is most interested in the enactment of a law at this session of Congress.

CAUSES FOR REMOVAL OF CODE AUTHORITIES.

An administrative order issued by the Recovery Board states causes for removal of members and employees of code authorities. These are:

(1) Conviction of code violation or removal of Blue Eagle involving any firm with which the member is in any way connected.

(2) Commission of a criminal, tortious or illegal act in connection with the activities of the code authority.

(3) Conviction of crime involving moral turpitude, after selection as a member of the code authority.

(4) Obstruction of the administration of the code.

(5) Neglect of duty.

NIRB SEEKS TO END MULTI CODE RULES.

The National Industrial Recovery Board has approved an order under which retailers will be required to pay only one code assessment regardless of the number of retail codes which affect the business. The principal line of business must be certified.

PENNSYLVANIA PRESCRIPTION TAX UPHELD.

The Supreme Court of Pennsylvania has ruled that the tax on doctors' prescriptions, provided for in the State Emergency Relief Sales Tax Act of 1932, is legal. The ruling is of importance to druggists, inasmuch as it is estimated that back taxes will have to be paid on a state tax that no longer exists.

Prescriptions in Utah come under the 2 per cent sales tax.

HEALTH INSURANCE BILL.

A resolution calling for "the best and most effective kind of federal legislation to provide a system of health insurance throughout the United States" has been introduced in the Senate by Senator Hugo L. Black of Alabama. It proposes a "full" investigation by the Senate Committee on Education and Labor.

Simultaneously, with the introduction of the resolution, the American Association for Social Security made public a social security bill which will be introduced as a model measure in 43 state legislatures.

It is understood that Senator Black later will introduce a federal subsidy bill with the social security bill as a basis, plus the findings of the Senate committee.

The bill for the states includes a health insurance system under which the great proportion of those earning less than $3000.00 a year would receive essential medical services and part compensation of loss of income by illness.

Basically, the social security measure aims at the establishment of a statewide insurance fund supported by employees, employers and

the state. The purpose of Senator Black's bill is to provide a subsidy to states enacting health insurance on the lines drawn by the social security bill.

Abraham Epstein, executive secretary of the social security organization, declared that the bill is not an attempt to reorganize medicine.—From *Drug Topics*.

ADVERTISEMENT BILL.

Representative John T. Buckbee, of Illinois, has introduced a bill under which the mails and radio would be denied to a person disseminating misleading advertising, penalty is provided.

TAX-FREE ALCOHOL.

Representative Woodruff of Michigan introduced H R 1425 which would authorize the withdrawal of alcohol tax-free for the use of any clinic operating for charity and not for profit, including use in compounding of bona fide medicines for treatment outside of such clinics but not for sale.

BOARD DIRECTED TO ISSUE LICENSE.

In a Mississippi case a pharmacist who had been granted a license in Louisiana applied for a license in Mississippi. The law makes it mandatory that the State board of pharmacy license as a registered pharmacist any person of good moral character who had after examination been licensed to practice pharmacy in another state prior to December 31, 1927. A review of the case states that the Board had taken no action in the matter and hence the court action. After review of the case the court reversed the judgment of the lower court and directed the State Board of Pharmacy to issue a license to the applicant to practice as a registered pharmacist.

DRUG STORE SIGNS IDENTIFY THE ESTABLISHMENT.

The defense in four cases in California were found guilty in each case and appealed: their appeals were consolidated. Two cases were reversed because the complaint failed to prove and there was no proof adduced to show that the signs designated in the law were displayed on the store owned by the defendants. The court accordingly reversed the convictions in these two cases. In the other two, because of an error in assessing penalties on these defendants, the cases were remanded to the trial court with directions to impose the proper penalties.

WEST VIRGINIA CHAIN STORE LICENSE TAX UPHELD.

The right of states to levy a tax on chain stores was upheld by the Supreme Court of the United States in a recent decision of a case brought by the Standard Oil Company of New Jersey.

The decision specifically upheld the chain store license tax which is in force in West Virginia.

RECOMMENDATION FOR REVISION OF NRA.

The National Industrial Recovery Board has received a memorandum from the Consumers' Advisory Board containing recommendations for the revision of the National Industrial Recovery Act. Although there has been no opportunity for formal consideration of these recommendations, which were submitted January 5th, the National Industrial Recovery Board immediately made them public in the belief that discussion of all such proposals is desirable.

BLUE EAGLES.

The National Industrial Recovery Board announced recently that Blue Eagles for particular trades and industries marked "1934," as well as those originally issued under the President's Reëmployment Agreement, may be used in 1935.

NARCOTIC PEDLERS SENTENCED.

Fifteen narcotic pedlers were sentenced by Judge William H. Atwell in the United States District Court at Dallas.

TAX COMMISSION REFUNDS IN OHIO.

The Tax Commission of Ohio has issued a notice to dealers relative to refunds on unused cosmetic stamps. The Cosmetic law was repealed January 1st and there will be no cosmetic tax until after the sales tax receipts are obtainable by dealers.

A MISLABELED ELIXIR OF TERPIN HYDRATE AND CODEINE.

A qualifying word, such as "special," used in conjunction with the name of a product listed in the National Formulary, is not sufficient legal grounds for varying an N. F. formula, Judge D. J. Patterson of the United States District Court, Southern District of

New York, ruled in the case of the United States of America against seized bottles of Elixir Terpin Hydrate and Codeine.

Testimony showed that the product did not conform to the standard required by the National Formulary. The claimant contended that the word "special" after the name on the label was an indication that the product is not the Elixir of Terpin Hydrate and Codeine defined in the Formulary, but is a variation. After hearing testimony Judge Patterson gave the following opinion:

"The question is not what the chemist or the druggist may understand by the addition of the word 'special' to the title. The Food and Drugs Act was passed as a protection to the uninformed, that they might be assured that an article purchased was what it purported to be.

"Certainly the average consumer would not be put on guard that a compound called 'elixir terpin hydrate and codeine (special)' was not the elixir of terpin hydrate and codeine listed in the formulary. The word 'special' might well signify to him merely that the ingredients were especially pure or that the product was manufactured with special care. If a manufacturer wishes to use a National Formulary name for a non-conforming product, it is his duty to give the public unmistakable notice that in its composition there has been a departure from the formula given in the Formulary."

The Judge then quoted from the regulations for enforcement of the Food and Drugs Act, Regulation 7 (b), which provides: "A drug sold under a name, or a synonym, recognized in the United States Pharmacopœia or the National Formulary which does not conform to the standard of strength, quality or purity for the article as determined by the test laid down therein shall be labeled with a statement to the effect that the drug is not a United States Pharmacopœia or National Formulary article."

On the basis of this, Judge Patterson ruled that the bottles were misbranded.

Judge Patterson also gave his opinion on whether there was adulteration or misbranding on the score that the contents of the bottles did not correspond with the declarations on the labels. His opinion on this read, in part:

"The labels stated that each ounce contained one grain of codeine sulphate and eight grains of terpin hydrate. There was testimony by government chemists that on analyses there was more terpin hydrate than the quantity declared and less codeine sulphate. On the other hand, there was testimony that when compounded the products had precisely the quantities specified on the label, and there was testimony that the test for terpin hydrate is not a satisfactory one.

"The variations found by the government chemists, taken as a whole, are not wide, and I am not prepared to say that they are beyond the zone of experimental error and tolerance in manufacture. The burden of proof is on the United States, and the proof does not establish adulteration or misbranding by reason of discrepancy between the quantities set forth on the labels and the contents of the bottles.

"There will be a decree of forfeiture for adulteration and misbranding. Findings in conformity with this opinion may be submitted."—*Drug Trade News.*

TAX ON TOILETRIES.

It is stated that the battle in Congress will be to prevent an increase in taxes on toiletries and not in an effort to eliminate the taxes.

NEW NRA POLICY OF PUBLICIZING DRUG-CODE VIOLATIONS.

Settlement of a complaint against Ford's Cut Rate Drug Stores, Buffalo, N. Y., which charged violation of the loss limitation provision of the retail drug code has been announced by the NRA Compliance Division. The settlement, which was in the form of an affidavit signed by Otis C. Altfeld, is the first to be announced by the Compliance Division under a new policy which contemplates full publicity concerning alleged code violations.

Complaint was filed by S. N. Vaughn, secretary of the Buffalo Retail Drug Code Authority. A number of specific violations were charged in an affidavit presented to the board by Mr. Vaughn, among them being the selling of many products at cut prices.

The National Industrial Recovery Board has appointed Dr. Gustav Peck as assistant to the Administrative Officer on employment problems in codes and their administration. This appointment is in line with the Board's policy of allotting specific problems to personnel well versed in the subjects assigned them.

Dr. Peck was graduated from Columbia University and received his Ph.D. degree from Brookings Institution.