

forced upon the producer when a new Pharmacopœia becomes official. Under any revision of the Pharmacopœia his legal liability remains the same; he will always have the option either of observing U. S. P. standards or of stating upon the labels wherein his product differs from such standards.

4. That it is the common understanding among physicians and pharmacists and taught in all colleges of pharmacy, that the use of a U. S. P. title without the addition of qualifying adjectives or other explanatory words, implies that the product to which it is attached complies with U. S. P. standards of strength, quality and purity. Unless this be the rule, the primary purpose of the Pharmacopœia—to enforce uniformity in properties and potency—would be defeated.

5. That a proper variation clause is one which would require that when a U. S. P. title is attached to a drug of other than U. S. P. standards the qualifying words shall indicate clearly that the drug does not profess to comply with such official standards. The wording of the label should not be obscure or ambiguous, but such as to enable the reader to form an intelligent opinion as to the character of the product.

6. And finally, that the deletion of the variation clause from the Federal Food and Drugs Act would not close interstate commerce to the shipment of medicinal preparations of official drugs which did not comply with U. S. P. standards. The producer would need only to give his product some attractive coined name and ship it as a proprietary specialty, thus setting his own standards, without let or hinderance from any authority.

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#### A BRIEF HISTORY OF THE DRUG CODE.\*

BY E. F. KELLY.

Following the enactment of the National Industrial Recovery Act, the National Association of Retail Druggists appointed a Committee on the Retail Drug Code.

Later, a meeting of representatives of the state pharmaceutical associations was held in St. Louis, Mo., at the invitation of Drug Center, at which a Committee was named to cooperate with the N. A. R. D. Committee in preparing a code for the retail drug trade.

These Committees met jointly in Washington, D. C., and drew up a code which was sponsored by the N. A. R. D. with the approval of the AMERICAN PHARMACEUTICAL ASSOCIATION. Representatives of the Drug Institute of America, Inc., also cooperated in writing the Code. It was estimated that at least 60% of the retail drug trade of the Country sponsored the code.

The original hearing on the Code of Fair Competition for the Retail Drug Trade was held in the auditorium of the Chamber of Commerce of the U. S. A., Washington, D. C., on August 25, 26 and 27, 1933, before A. D. Whiteside as Deputy Administrator, and Donald Richberg as Legal Advisor. It became evident at the first session of the hearing that the Code as submitted would have to be amended and the remainder of the sessions were devoted to an effort to bring about

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\* Section on Historical Pharmacy, Portland meeting, 1935.

an agreement between the views of the National Recovery Administration and the representatives of the trade. Finally, a compromise was reached and an amended code was substituted. This code was the subject of a number of private hearings and conferences, and was finally approved by President Roosevelt on October 21, 1933, as a part of the Code of Fair Competition for the Retail Trade with Schedule A applicable to the retail drug trade. A copy of the code with explanations is attached, and it will be noted that drug retailers were subject to the same provisions as the other retailers subject to the code except as amended or supplemented by Schedule A.

Schedule A provided for the administration of the Code as far as the drug trade was concerned, by the National Retail Drug Trade Council composed of two members representing the National Association of Retail Druggists, one member representing the AMERICAN PHARMACEUTICAL ASSOCIATION and one member representing the Drug Institute of America, Inc.—the members to be approved by the NRA.

The Council was approved on October 27, 1933, with the following temporary membership: John A. Goode and John W. Dargavel, representing the National Association of Retail Druggists; E. F. Kelly, representing the AMERICAN PHARMACEUTICAL ASSOCIATION, and Wheeler Sammons, representing the Drug Institute. In November 1933, George M. Gales was added as the representative of the National Association of Chain Stores with the Approval of NRA. Later, each of these gentlemen was elected to membership with the exception of E. F. Kelly, representing the A. Ph. A. who served as a temporary representative, since a meeting of this ASSOCIATION was not held in the interval between the time when permanent representatives were requested and the closing of the code organization. At the organization meeting, J. A. Goode was elected *Chairman*, and E. F. Kelly, *Secretary-Treasurer*, of the Council and they served continuously as did each member, throughout the existence of the code. W. H. Johnson was elected *Assistant Secretary* in charge of the office and resigned on April 1, 1934, when he was succeeded by Paul Pearson. E. F. Kelly served as *Executive Secretary* from June 1934 to March 15, 1935, when he was succeeded by W. S. Elkins, Jr.

The name of the Council was changed to the National Retail Drug Code Authority in December 1933. The office was located in the Tower Building, 14th and K Sts., N. W., until May 1, 1934, after which date it was located in the National Press Building, 14th and F Sts., N. W., Washington, D. C.

The Code became effective on October 30, 1933, and, after organizing, the Council undertook the organization of local code authorities. It was recommended that these be set up in each congressional district, except in those cases where two or more congressional districts were included in a city, when the districts were to be combined and a metropolitan code authority composed of representatives of the districts included, was to be organized. The president of each state pharmaceutical association was requested to name three representative druggists in each congressional district to conduct the election of the local or metropolitan code authority. This procedure was unique and proved to be very successful since approximately 420 out of a possible 435 congressional districts were organized and in operation within a short time.

Raising the necessary funds also had prompt attention. A voluntary assess-

ment of one dollar per employee was levied for the year ending October 31, 1934, payable to the local or metropolitan code authority of which one dollar per store was to be remitted to the national code authority for its expenses. The remainder was intended for the expenses of the local or metropolitan code authority whose treasurer was bonded, under a budget approved by NRA and subject to audit. The single assessment plan was adopted whereby the retailer paid only to the code authority representing his principal line of business.

The budget submitted in October 1934, and approved in November 1934, covered the six-month period from November 1, 1934 to April 30, 1935, and called for a mandatory assessment of one dollar per employee payable to the local or metropolitan code authority of which fifty cents per store was to be remitted to the National code authority. This was a combined budget and covered \$25,000.00 for the national code authority and \$173,979.05 for the local and metropolitan code authorities.

The National Code Authority adopted a Constitution and By-Laws, which were approved by NRA.

During the life of the code, the following amendments to Schedule A were approved after public hearings:

*Amendment No. 2* established a new Loss Limitation clause effective April 7, 1934, making it a violation to sell below the manufacturers' wholesale list price in dozens, provided that all discounts, free goods and allowances made available to all purchasers in dozens be taken into account. The proviso made it necessary for the national code authority to issue lists giving approved minimum prices which proved to be unworkable because of the large number of items affected and because of the frequent changes in prices.

*Amendment No. 6.*—A new Loss Limitation clause was approved, effective September 8, 1934, qualifying Amendment No. 2 by removing the unworkable proviso and giving the Administrator the right to suspend or modify the clause in respect to all articles, the price of which the manufacturer was found to be manipulating unfairly.

*Amendment No. 7* provided for mandatory assessments.

*Amendment No. 9* provided for the incorporation of the national or local or metropolitan code authorities. The national code authority was not incorporated.

A number of interpretations and administrative orders affecting the drug code were issued by NRA but time will not permit a discussion of them.

Although the Code Authority recognized the need for and the fairness of a reasonable labor mark-up, it realized the necessity of establishing a sound cost definition first as a basis. A request for a labor mark-up was filed in November 1933, and a mass of information in support of such a mark-up was submitted.

The Code Authority has been represented at many conferences and on several committees. The more important were the code meetings in March 1934, when several thousand of the most representative business men of the country were called to Washington to consider the entire question of regulation by codes. As a result, three committees were appointed to study the whole situation and submit recommendations and opinions to the Administrator. These committees were on (1) Capital Goods; (2) Consumer Goods; (3) Retail and Service Trades. Our Code Authority was represented on the second and third of these committees and the needs of the retail druggists were strongly presented.

Many troublesome questions and conflicts between the provisions of the several retail codes have arisen and have required much time and effort. Among

these may be mentioned soaps, medicinal foods, soft drinks, tobaccos, candies, drug sundries of various types, and many other products which are sold by various classes of retailers. These developments have led to closer relations and coöperation between the various retail code authorities. As an illustration, may be mentioned the general agreement for a single assessment under that code representing the principal business of the retailer. This agreement did away with the very troublesome multiple assessment. A strong effort was made to secure a reasonable plan for distributing the Blue Eagles and labor posters, making these easily available to the retail druggists.

It is impossible to enumerate every activity of the Code Authority or to more than indicate the time and effort that has been required. Those acquainted with Governmental procedure, and especially in a new and vast activity, can fully understand the situation.

The Code Authority held regular monthly meetings and many special meetings. Some meetings continued over several days. The correspondence with local code authorities, with individuals and with governmental officials and agencies has been very extensive. The expenses were heavy but the Code Authority operated well within its budget.

No one realizes more clearly than the members of the Code Authority and their associates the disappointments that followed the code efforts, and the apparent inability of those directing NRA to reach decisions and to maintain policies was discouraging. The frequent change in personnel in the NRA greatly interfered with the work and it was difficult to impress upon NRA that the retail drug industry has peculiar duties and processes of its own.

However, the effort and expense are believed to have been justified when the dangers that were avoided and the progress that was made are given full consideration. It has been a fine illustration of the benefits of organization, of the value of ethics and fair play in business, of the fact that a sound system of distribution is to the interest of consumer as well as of distributor, and that a fair price is not necessarily a higher price to the consumer.

With the decision of the Supreme Court in the Schechter case, it was necessary to promptly liquidate the affairs of the national, local and metropolitan code authorities. The national code authority liquidated, with legal advice, by completing its records, by paying its bills, and all expenses in the orderly closing of its affairs. As the national code authority had operated on a small balance, no dispersion of balance was necessary.

It was ordered at the final meeting held on June 8, 1935, that the records of the National Code Authority should be placed in the keeping of the secretary for one year and then turned over to the AMERICAN INSTITUTE OF PHARMACY for such historical use as can be made of them. In this way, the history of this very important social and economic experiment will be preserved and later it is hoped that it may be written up more completely.