Section on Education and Legislation

Papers Presented at the Sixty-Third Annual Convention

MINUTES OF THE SECOND SEPARATE SESSION OF THE SECTION ON EDUCATION AND LEGISLATION.*

The second session of the Section on Education and Legislation was called to order by Chairman Freericks in the Red Room, Bellevue Hotel, San Francisco, on Thursday, August 12, 1915, at 2:15 p. m.

Professor E. L. Newcomb acted as Secretary pro tem.

Chairman Freericks: The report of the Committee on National Legislation and also the report of the National Drug Trade Conference seem to have gone to the General Session. The next order of business will be the consideration of the report of the Committee on Regulations for Transportation of Drugs by Mail of which Mr. B. L. Murray is the Chairman.

REPORT OF THE SPECIAL COMMITTEE ON REGULATIONS FOR TRANSPORTATION OF DRUGS BY MAIL.

At the annual meeting held in Detroit in August of last year, 1914, the Committee on Post Office Regulations for the Mailing of Poisons made a full report on the situation, taking up the causes of the unfortunate position in which we find ourselves and setting forth at length the laws and regulations governing or rather preventing the mailing of poisons. (See *Journal American Pharmaceutical Association,* February, 1915.) The Committee's report was heard and accepted, and the Committee itself discharged. It was evident, however, that work of this kind, to be of value, must be continuing and some weeks after the August meeting the Committee, slightly rearranged, was reappointed. It is now known as the Special Committee on Regulations for Transportation of Drugs by Mail.

The situation as depicted in our last previous report remains unchanged today, no new laws having been passed and no new regulations having been promulgated. It is still illegal to send poisons through the mails, even though they can be packaged in such way as to make them safe for all that handle them. It is a daily occurrence that small parcels containing poisons must be handled by express, and usually at greater expense, merely because we forbid ourselves the use of our parcel post. The express companies handle the packages with entire safety both as to their employes and as to the goods. In the meantime our Post Office Department in Washington instead of being allowed to increase its usefulness, is issuing statements showing millions of expense beyond its receipts.

It has been suggested by some that each individual take the subject up with his postmaster, urging an extension of the parcel post so that poisons may be handled through the mails. It might stimulate the Post Office Department to a closer consideration of the subject if it were brought to the attention of the Department constantly by the postmasters themselves. If it were taken up on the basis of an extension of the parcel post as well as a needed added facility in the drug business it would perhaps be of value.

*Papers read before the Sections will be accompanied by the discussions and are therefore omitted from the minutes.

Your Chairman, who is writing this report because he feels it is only a report of progress, expresses the view of the Committee as shown by correspondence that two fields are open to us, and both must be cultivated. First, we must continue to voice our disapproval of present conditions, as we do from time to time, and second, exert our influence to secure the passage of a national poison law especially drawn to regulate interstate commerce in poisons. Handling poisons in the mails will naturally follow the enactment of such a law.

The Committee has made a study of the above two fields of operation during the year and has noted with interest the attention that other bodies also are giving to the subject. It is therefore suggested that the work of the Committee be carried on through the coming year or years, recognizing at once that the work is likely to be lengthy. The Chairman would be glad to suggest one or two more names to add to the membership of the Committee.

Respectfully submitted,

B. L. MURRAY, Chairman.

Chairman Freericks: You have heard the report of the Committee, what is your pleasure?

It was moved by W. C. Anderson, and seconded by Dr. Otto F. Claus, that the report be received and that it take the usual course.

Chairman Freericks: Are there any remarks? The Chairman of the Committee suggests one or two other names for increasing the membership of the Committee. Do you desire to take that into consideration at this time or shall we simply receive the report and let it take its usual course?

Dr. W. C. Anderson: I wish to ask how the number of members of that Committee is provided for?

Chairman Freericks: The Committee was appointed originally by this Section two years ago. It is a Committee of this Section, and as I understand it, the number of the Committee may be increased.

The motion having been regularly made and duly seconded, it was declared carried, after voting thereon.

Chairman Freericks: Now, is there any desire to act upon this recommendation?

Dr. W. C. Anderson: I move that the request of the Chairman of this Committee be complied with and that the Committee be increased by the addition of two extra members.

(Seconded by Dr. Otto F. Claus.)

Mr. R. F. Troxler: I would like to amend Dr. Anderson's motion and offer a substitute.

The Chairman intimates that he would like to suggest the names of the two additional members. I move that he be invited to suggest them and that he appoint them on the Committee. Is that agreeable?

Dr. W. C. Anderson: I will accept that.

Chairman Freericks: The amendment, as proposed by Dr. Troxler, is accepted by the mover of the original motion and his second.

The motion carried.

Chairman Freericks: The next order of business is the report of the Committee on Survey of the Pharmaceutical Teaching Institutions, by Mr. Hugh Craig, Chairman.

The Chair would accept the opportunity of saying that this is a most impor-

tant work. The report is the first one made by the Committee, and since the task undertaken is an enormous one, you must look to the fact that it is only the beginning of the work, but I believe you will find it of great interest. Miss Cooper has kindly consented to read this report.

REPORT OF COMMITTEE ON THE SURVEY OF TEACHING INSTITUTIONS.

Your Committee's report will be one of progress and suggestion. The progress has not been very marked because the Committee was not appointed until early in the year 1915 (through no fault of the honorable Chairman of the Section); and because none but very busy members could be secured to act on this Committee—a common condition—and also because the Committee was quite without instruction as to the scope of its purpose.

Your Committe has hesitated to essay the work which, doubtless, was intended for it, that is, a classification of the pharmacal teaching institutions of the country, because it had no basis for such a classification and did not feel empowered to define a basis and operate thereupon without first submitting the scheme of classification to the creating body for approval. Your Committee, therefore, takes this occasion to *recommend that this Section prepare a classification of the teaching institutions giving personal instruction in pharmacology, and for pharmacal ends, in the allied subjects embraced within the examinations by boards of registration in pharmacy, on the following bases*:

a—Degrees conferred.
b—Actual entrance requirements.
c—Length of courses.
d—Scope of courses.
e—Obligations as to attendance.
f—Passing grades.
g—Number and qualifications of members of faculty.
h—Value of property, real and chattel, owned by institution.
i—Affiliation with a university or other educational group.
j—Ratio of fees to operating expenses.

Your Committee feels that this Section may well interest itself in the several matters embraced in the foregoing list of bases for classification and that it can do a great deal to bring about uniformity, at least in, say, three, general classes, of teaching institutions, and assist materially in eradicating the evils which are commonly complained of in connection with the practices of teaching institutions in these regards.

With regard to bases a, b, c, and d, your Committee feels that the path blazed by the American Conference of Pharmaceutical Faculties should be followed, but that some further endeavor should be made to assure a proper rating of qualifications in preliminary education, other than that obtained in a high-school, in other words, of the so-called "equivalent." This "equivalent" should be based upon subjects which are of practical value to the future chemist, and the required counts or units should cover not less than five subjects, three of which should be: English, mathematics and physics.

Your Committee recognizes the delicacy of any attempt to standardize teaching faculties, but it believes such a step to be an important one and a necessary one. In the first place, those who set themselves up as teachers should know, not only what they are teaching, but as well how to impart knowledge. It would be well if they were required to have some training in pedagogic practice. On the other hand, the efforts of a teacher, without actual practical experience in the operation of a drug store, to instruct students in the commercial phases of pharmacal practice are quite likely to prove as disastrous in the future life of the student as have been many of the purely theoretical ideas of the so-called "efficiency experts." Very little of the very necessary psychology of selling can

be learned from books, the salaries of advertising experts notwithstanding. Of course, a retail druggist, with the druggist's usual lack of familiarity with accounting, is an equally poor teacher. And commercial training is the one most needed qualification in the retail drug business today, because the commercially trained young man will recognize the folly of setting up in business with more mortgage than capital in his investment, and much debauching of pharmacy and unfair competition will be obviated.

A question that calls for careful consideration in the standardizing of teaching faculties is the effect of recruiting the faculty from among students of the institution. Few, if any, teachers can impart their full knowledge of a subject to a student; and to hand down from teacher to student the task of instruction in any one subject is to court the detrimental effects of what may be styled inbreeding.

Another fault, somewhat of a similar relation, is that of manufacturing a faculty by conferring higher degrees upon complacent, yes, eager, prospective or acting teachers. This practice is widely at odds with educational ethics and should be frowned upon by this Association.

So much for comment upon the Committee's suggestions for a scheme of classification. It is, of course, not the idea of the Committee that the rankings on the several bases, suggested above, are to be cumulated to indicate the school of the highest grade. Some of the bases are closely related and may be cumulated quite properly; but others are more informative than essential in this regard.

It is the belief of your Committee that this Section should take cognizance of other phases of pharmacal education than that of the school giving personal instruction. There are a number of correspondence schools in pharmacy, some of which, to the personal knowledge of members of the Committee, are so lax in their methods of gauging the progress of their students as to give very high rankings to students who have answered the questions apparently with an open book before them, because, separated from the informative volume, they are totally at a loss for an answer to the simplest questions. It is quite properly the duty of this Section to make it possible for prospective students to get the correct appreciation of the value of a correspondence course. If this Association fails to point out clearly the difference between knowledge and instruction, it does not serve the purpose for which it stands in the general pharmacal opinion.

In several cities the Young Men's Christian Association conducts classes in pharmacy, and the practice is spreading. The instruction given in these classes compares favorably with that given in the minor schools of pharmacy. As long as there is no general adoption of graduation from a standardized school of pharmacy as a prerequisite for examination by a board of pharmacy, this Section should pay as much attention to the supply of properly qualified pharmacists, from whatsoever source, as to the supply of teaching institutions of a certain standard: it should interest itself in every means of educating the pharmacal novice. That interest on the part of this Section in the Y. M. C. A. work will be welcomed is indicated by the following quotation from a letter received by the Chairman of your Committee from Mr. George B. Hodge, the Secretary for the educational department of the International Committee of Young Men's Christian Associations:

"We shall be glad for your helpful suggestion with reference to any step we may take or ought to take, that such courses may be strengthened, improved, and in keeping with the standards of your general association."

Of particular interest to those who have any concern for the education of the pharmacist has been the action of the educational authorities in several cities, Cincinnati and Chicago being prominent examples, in coöperating with local pharmacal organizations to provide part-time instruction in the high-schools for apprentices in drug stores, the purpose being the commendable one of affording an opportunity for the apprentice to acquire the preliminary educational qualifications required by the better colleges of pharmacy, and very necessary for the

welfare of pharmacy. By a proper correlation of the apprentice's work and study in the store—it is to be hoped that the old apprentice system has not been so far neglected as to make the boy's service all work and no study,and with the instruction given in the high-school, this plan will do more than anything else to provide educated and able pharmacists. It should, therefore, have the heartiest approval of this Section, and the members of this Association should urge its adoption in every community and lend every assistance in the laying-out of a scheme of instruction, properly correlating the instruction given in the school and that given by the preceptor. *Your Committee recommends that this Section take steps toward the adoption of a scheme or curriculum for correlated instruction of this sort.*

The growing importance of the trained sanitation officer to every community is sufficient reason for this Section to interest itself in the education of persons to fill these offices. Something more than a chemist and bacteriologist is needed, *and your Committee would recommend that this Section urge pharmacal schools, which are so affiliated or located as to be able to do so, and the Young Men's Christian Association to establish a course in connection with a technical school or class, which will qualify students as sanitation officers and to confer upon them a certificate or diploma of public health.*

The field, in which your Committee has done such a little preliminary scratching of the top soil, is one well worthy of the most careful attention of this Section and of the general Association. Your Committee, therefore, recommends *that the work begun by it be carried forward,* and requests a careful and thorough consideration of its suggestions, so that those, into whose hands may be entrusted the real work of surveying and improving this important field, may be able to go about the performance of their task in a thoroughgoing manner. There are many contingencies to be met, many disasters to be avoided, and many pitfalls to be escaped in the proper performance of this task; but the results are so important to the future of pharmacy that the work should be put forward with diligence and dispatch.

Appended is a list of one hundred and fourteen institutions of various sorts, which are engaged in offering some variety of instruction in pharmacy. This list is not offered as being complete, because it is not possible to get information about every tutorshop and plugging school. Much assistance was given to your Committee in the compilation of this list by Prof. J. A. Koch, the Chairman of the Executive Committee of the American Conference of Pharmaceutical Faculties, and by the secretaries of a number of the state boards of pharmacy, and to these we desire to express our appreciation and gratitude. For obvious reasons we have omitted from this list the schools in Canada, Cuba, Porto Rico, and the Philippines, believing the field afforded by the continental portion of the United States, sufficiently extensive for the original purpose of the work of survey.

Respectfully submitted,

J. H. BEAL,
H. C. CHRISTENSEN,
HUGH CRAIG, Chairman.

ALABAMA:—Alabama Polytechnic Institute, Auburn. Birmingham Medical College and College of Pharmacy, Birmingham. University of Alabama, Department of Pharmacy, Birmingham.

ARKANSAS:—College of Physicians and Surgeons, Little Rock.

CALIFORNIA:—California College of Pharmacy, San Francisco. College of Physicians and Surgeons, Department of Pharmacy, San Francisco. University of Southern California, Department of Pharmacy, Los Angeles.

CONNECTICUT:—Y. M. C. A. School of Pharmacy, Hartford.

DISTRICT OF COLUMBIA:—Howard University, Department of Pharmacy, Washington. National College of Pharmacy, Washington.

FLORIDA:—Florida College of Pharmacy, Jacksonville.

GEORGIA:—Atlanta College of Pharmacy, Atlanta. Mercer University, Department of Pharmacy, Macon. Southern College of Pharmacy, Atlanta. University of Georgia, Department of Pharmacy, Athens.

ILLINOIS:—Central States College of Pharmacy (Loyola University), Chicago. Northwestern University, School of Pharmacy, Chicago. University of Illinois, School of Pharmacy, Chicago.

INDIANA:—Prof. Green's School of Pharmacy, Indianapolis. Indianapolis (Winona) College of Pharmacy, Indianapolis. Notre Dame University, Department of Pharmacy, Notre Dame. Purdue University, School of Pharmacy, Indianapolis. Tristate Normal School, Department of Pharmacy, Angola. Valparaiso University, School of Pharmacy, Valparaiso.

IOWA:—Babcock Institute of Pharmacy, Des Moines. Drake University, College of Pharmacy, Des Moines. Highland Park College of Pharmacy, Des Moines. Keokuk College of Pharmacy, Keokuk. University of Iowa, Department of Pharmacy, Iowa City. Western Pharma-Technic Institute, Council Bluffs.

KANSAS:—University of Kansas, Department of Pharmacy, Lawrence. Wuester School of Instruction in Pharmacy, Wichita.

KENTUCKY:—Louisville College of Pharmacy, Louisville.

LOUISIANA:—New Orleans College of Pharmacy (Loyola University), New Orleans. Tulane University, Medical School, New Orleans.

MAINE:—University of Maine, College of Pharmacy, Orono.

MARYLAND:—Artel's School of Pharmacy, Baltimore. Maryland College of Pharmacy (University of Maryland), Baltimore. Milton University, Baltimore.

MASSACHUSETTS:—Massachusetts College of Pharmacy, Boston. Dr. Patrick's School of Pharmacy, Boston.

MICHIGAN:—Detroit College of Medicine, Department of Pharmacy, Detroit. Detroit Technical Institute (Y. M. C. A.), Department of Pharmacy and Chemistry, Detroit. Ferris Institute, Department of Pharmacy, Big Rapids. University of Michigan, School of Pharmacy, Ann Arbor. Warner School of Pharmacy, Sandusky.

MINNESOTA:—Minnesota Institute of Pharmacy, Minneapolis. Smith (F. U.) School of Pharmacy, St. Paul. University of Minnesota, School of Pharmacy, Minneapolis.

MISSISSIPPI:—University of Mississippi, School of Pharmacy, University.

MISSOURI:—Barnes College of Pharmacy (National University of Art and Science), St. Louis. Bates College of Pharmacy, St. Louis. Bowen School of Pharmacy, Brunswick. Kansas City College of Pharmacy, Kansas City. St. Louis College of Pharmacy, St. Louis. Whitney School of Pharmacy, Kansas City.

MONTANA:—University of Montana, School of Pharmacy, Missoula.

NEBRASKA:—Creighton University, Department of Pharmacy, Omaha. Fremont Normal College, School of Pharmacy, Fremont. Omaha College of Pharmacy, Omaha. University of Nebraska, School of Pharmacy, Lincoln.

NEW JERSEY:—College of Jersey City, Department of Pharmacy, Jersey City. New Jersey College of Pharmacy, Newark.

NEW YORK:—Albany College of Pharmacy, Albany. Brooklyn College of Pharmacy, Brooklyn. College of Pharmacy of the City of New York, Columbia University, New York. Fordham University, School of Pharmacy, New York. University of Buffalo, College of Pharmacy, Buffalo.

NORTH CAROLINA:—Leonard Schools of Pharmacy and Medicine, Raleigh. University of North Carolina, Department of Pharmacy, Chapel Hill.

NORTH DAKOTA:—North Dakota Agricultural College, Department of Pharmacy, Fargo.

OHIO:—Cincinnati College of Pharmacy, Cincinnati. Cleveland College of Pharmacy, Cleveland. Ohio Northern University, Department of Pharmacy, Ada. Queen City College of Pharmacy, Cincinnati. Toledo University, School of Pharmacy, Toledo. Ohio State University, Department of Pharmacy, Columbus.

OKLAHOMA:—Epworth University, Department of Pharmacy, Oklahoma City. Northwestern State Normal School, Department of Pharmacy, Alva. University of Oklahoma, School of Pharmacy, Norman.

OREGON:—North Pacific College of Pharmacy, Portland. Oregon Agricultural College, Department of Pharmacy, Corvallis. Y. M. C. A. College of Pharmacy, Portland.

PENNSYLVANIA:—Medico- Chirurgical College, Department of Pharmacy, Philadelphia. Philadelphia College of Pharmacy, Philadelphia. Pittsburgh College of Pharmacy, Pittsburgh. Temple College of Pharmacy, Philadelphia.

RHODE ISLAND:—Rhode Island College of Pharmacy and Allied Sciences, Providence. Washington Park College of Pharmacy, Providence.

SOUTH CAROLINA:—Medical College of the State of South Carolina, Department of Pharmacy, Charleston.

SOUTH DAKOTA:—Dakota Normal College, Department of Pharmacy, Sioux Falls. South Dakota Agricultural College, Department of Pharmacy, Brookings.

TENNESSEE:—Chattanooga Medical College, Department of Pharmacy, Chattanooga. Meharry Pharmaceutical College, Nashville. University of the South, College of Pharmany, Sewanee. University of Tennessee, Department of Pharmacy, Knoxville. Vanderbilt University, Department of Pharmacy, Nashville.

TEXAS:—Baylor University, College of Pharmacy, Dallas. Department of Pharmacy, University of Texas, Galveston.

VIRGINIA:—Medical College of Virginia, School of Pharmacy, Richmond. University College of Medicine, Department of Pharmacy, Richmond. Virginia School of Pharmacy, Richmond.

WASHINGTON:—University of Washington, School of Pharmacy, Seattle. Washington Agricultural College, School of Pharmacy, Pullman.

WEST VIRGINIA:—West Virginia University, Department of Pharmacy, Morgantown.

WISCONSIN:—Marquette University, Department of Pharmacy, Milwaukee. University of Wisconsin, Department of Pharmacy, Madison. Wisconsin Medical College, Department of Pharmacy, Milwaukee.

Chairman Freericks: You have heard this most interesting report of the Committee, and I would like to ask now what is your pleasure with reference to it?

Dr. W. C. Anderson: I move, Mr. Chairman, that the report be received and referred to the Committee on Publication, with the recommendation of the Section that the Committee be continued or that this work be continued, at least, and the report of the Committee be approved. Seconded by Mr. Binz.

A Member: I notice that the report refers to giving degrees. I do not know just exactly how it was expressed, anyway, that we were not competent to fill the position that the degree placed the student in. While it is true, I think, that several of our members did not have the opportunity to go to college years and years ago, yet they have done good work for the Association, and for pharmacy. It is very nice to honor them by a degree, even though their teaching may not be high enough to warrant it. I believe it is a deserved honor, and I believe in honoring people while they are alive and not waiting until they are dead.

The motion of Dr. Anderson was called for, and carried by vote.

Chairman Freericks: We will now have the report of the Committee on Patents and Trade-marks. This report will be read by Mr. England.

Before the reading of the report, Mr. England stated that the Chairman of the Committee is Dr. F. E. Stewart, who, unfortunately, is not able to be present, and had asked him to read the report.

REPORT OF THE COMMITTEE ON PATENTS AND TRADE-MARKS.

Owing to the shortage in supplies of imported chemicals, caused by war conditions in Europe, and the hinderance to plans for manufacturing them in the United States because of patent grants made to foreign inventors, who are not

manufacturing them in this country, the question of patents and trademarks has occupied considerable prominence during the past year.

The Chairman of your Committee, as your representative and as a representative of similar committees of the Pennsylvania State Pharmaceutical Association, and of the Philadelphia Merchants' and Manufacturers' Association, attended the hearing at Washington before the House Committee on Patents in relation to the Paige Bill, in company with Mr. Samuel C. Henry, President of the National Association of Retail Druggists, and Mr. Jacob H. Rehfuss, Chairman of the Legislative Committee of said association. The Paige Bill and the hearing[1] referred to are of so much importance to pharmacy that your Committee is presenting both documents as part of its report.

You will note that your Chairman filed a brief with the House Committee on Patents, which appears in the official report of the hearing. This brief consists of Preambles and Resolutions constituting his report as Chairman of the Committee on Patent Law Revision of the Merchants' and Manufacturers' Association, and includes a proposed revision of certain sections of the copyright, patent and trademark laws, which bear upon the chemical industries and the materia medica supply business.

The proposed revision was undertaken by your Chairman in response to the request of Dr. S. Solis-Cohen, Chairman of the Committee on Scope of the Committee having charge of the revision of the United States Pharmacopœia.

The salient features of the proposed revision consist in certain additions to and modifications of the laws, as follows:

1—Modification of the patent law to prevent aliens from obtaining patents for their invention in the United States except in case they manufacture them in this country, within a stated period of years dating from the issue of United States patents.

2—Adoption of a provision in the U. S. Patent Law, similar to a provision contained in the German Patent Law, and also contained in the Patent Laws of most foreign countries, which limits patents related to new chemical and food products to processes and apparatus for manufacture, and requiring inventors of alleged improvements to prove them to be such before placing the same on the market in competition with the inventions of original patentees.

3—Addition of a section to the copyright, patent and trademark laws, respectively, definitely stating the fact that names of new articles of commerce are neither copyrightable or patentable.

4—Addition of a section to the patent and trademark laws requiring applicants for patents or trademark registration, to give the name of the article for which patent is asked or trademark registration requested, said name to appear afterward as the principal title on all labels and advertisements of said article, when placed on the market.

The following exception to our position in relation to so-called trade names has been filed with your Committee:

"When a patent was granted by the United States to the inventor of acetphenetidin this gave an absolute monopoly to the manufacture and sale of said article for a limited time. When that time expired everybody secured the right to manufacture and sell said article, and a monopoly in the manufacture and sale ceased altogether. Now you would hold it to be wrong that the patentee for said article adopted the coined name phenacetin and made acetphenetidin generally known by such coined name, so that those who buy and use the article are accustomed to call for it as phenacetine. There was absolutely nothing which prevented the professions and the public from becoming accustomed to call for said article by the name acetphenetidin, and the original patentee or those holding his rights could in no manner complain, if the patented article was generally called for by such name and then upon expiration of the patent everybody being accustomed to call for it by such true descriptive name, the advantage of the original patentee would entirely cease with the expiration of the patent.

"Now because the professions and the public are indifferent to the use of a correct de-

[1]This is too lengthy for printing in the Journal. Those who desire a copy can secure one by addressing the Committee on Patents, House of Representatives. The date of the Bulletin is January 28, 1915.

scriptive name or because they are too lazy to use it you complain and condemn the patentee for having acquainted the public with a name coined by him, which results in securing to the original introducer the acetphenetidin manufactured by the original patentee. It is right at this point where our views differ. I am inclined to believe that you would object quite as much if the patentee had advertised his article as Jones' acetphentidin, and had been able to have the public always call for Jones' acetphenetidin instead of simply acetphenetidin. Of course, you will agree that no one in justice could object if through extensive advertising the patentee had induced the public and the professions to invariably designate his article as 'Jones' acetphenetidin,' and thus secure advantages in the continued demand for the article after the expiration of the patent, but because he has decided upon a coined name to mean exactly the same thing as Jones' acephenetidin, you believe that his conduct is much to be condemned.

"After all in this connection it is merely a question of degree. It is understood, that the public will far more readily take to a coined name, but fundamentally there is no difference, and if the patentee might succeed in having the name of the article invariably used in connection with *his own* name, then as stated the result would be the same and there ought not to be an objection on any ground."

No one disputes that the manufacturer of a new product, who places it on the market, and succeeds in creating a demand for it, by honest advertising, has a right to all of the business he can obtain in this manner, provided, of course, the product itself can safely be used by the public, without injury to health or morals. No one disputes that the use of a distinctive mark, word, or trade name to designate and distinguish his brand from all other brands of the same article, and the creating of a demand by advertising the article under a brand name, are both legitimate and may be advisable from a commercial standpoint.

It is, therefore, important that the trade name should be properly used, otherwise, in case of a lawsuit, the manufacturer may find himself without the protection of the courts. The method of using the trade name described by our objector, is not the proper manner, as the following facts will clearly show:

It is evident that the object in view on the part of those manufacturers of materia medica products who patent their alleged inventions under chemical names, and market them under coined names, is to obtain monopolistic control of the products so marked, after the patents expire, and thus defeat the object of the patent law, which is to grant inventors the right to prevent others copying their inventions for limited times, after which their manufacture is required to be open to competition on equal terms with the patentee.

The coined name, when used in this manner, becomes, by such use, descriptive of the article itself, and it is an axiom of law that a descriptive name cannot be a trademark. Used in this manner the name ceases to be a trademark, even though it may have been registered as such and becomes a synonym and as such can be used by any manufacturer in labeling the same product. This is well illustrated in the case of saccharin, the chemical name of which is benzoylsulphonic imide. By persistent advertising the word saccharin was forced into the language as a noun and became known to the public as an appellative. When the patent expired benzoylsulphonic imide became public property, together with the name saccharin. Now it is listed in Merck's Index as "Saccharin Merck," and under that name appears its chemical name benzoylsulphonic imide, and also all of the so-called trade names, such as "Garantose," "Glusidum," etc. It is manifest that when Merck & Co. received an order for benzoylsulphonic imide under any one of these so-called trade names, they would feel free to supply it under the name Saccharin Merck.

Is this action of Merck & Co. in harmony with the object of the patent law? Let us analyze the question.

Benzoylsulphonic imide is a definite chemical substance which, if properly made, corresponds to the same tests for identity and purity no matter which manufacturer produces it. It first appeared on the market as "Saccharin." The name "Saccharin" was claimed by the commercial introducer as a trademark or trade name. Its sale was inhibited by patent protection. These restrictions have been removed by the expiration of patent. In accordance with the decision

of the Supreme Court of the United States in the Singer Sewing Machine Case,* the product is now open for competition under the name saccharin, as well as under the name benzoylsulphonic imide. No one will question the right of Merck & Co. to treat the names "benzoylsulphonic imide" and "saccharin" as synonyms. The question, therefore, resolves itself into this, namely, is it not a proper proceeding on the part of Merck & Co. to treat all other trade names as synonyms also? The product is open for competition. No one has the right to control the name saccharin. Why should any one have the right to control any other name by which the product is known? Why should Merck & Co. place themselves in a disadvantageous position commercially by recognizing proprietary claims on the part of competing houses? When the patent inhibiting the sale of the product expired Merck & Co. were forced to relinquish all proprietary claims to the name "Saccharin." Why, then, should they recognize proprietary claims to other "trade names" for the product on the part of their competitors?

The question arises in each case, is the name claimed by the manufacturer as a trademark, a trademark in fact, or merely another name for the same thing, and therefore, a synonym? This question can usually be answered without difficulty by asking another question, namely, is the name claimed as a trademark *used* by the manufacturer for the purpose of distiguishing his *brand* of the article from other brands of the same article, or is it used to give the medical profession or the public the impression that the article sold under the name is in its physiological properties and therapeutic effects different from other articles used for the same purposes? If it is a different article it is perfectly proper to give it a different name, in which case the name given it becomes public property, and all who deal in the article (and all have a right to deal in it unless restrained by patent) have a right to designate it by the name by which it is recognizable.

Names cannot be copyrighted or patented, or owned by anybody, no matter whether they are coined names or not. Every word in the language was coined by somebody and if the act of invention creates a right to the ownership of a word or a name, the entire common language in fact now belongs by right to the inventors and every time we speak or write a word or use a name, we are guilty of infringing the "vested rights" of somebody.

Armed by these facts, let us return to the objections urged by the gentleman who takes exception to our position regarding "trade names."

Our objector uses as a foundation for his argument the assumption that "Jones," having a right to the exclusive use of his own name, Jones, has also the right to designate the acetphenetidin made by him as Jones' acetphenetidin, and, therefore, the right to substitute for his own name (Jones) another name as a designating or specifying word-mark, i. e., phenacetine. This argument seems plausible, but it is unsound. Singer probably had the same idea in mind when he

*DECISION OF SUPREME COURT OF THE U. S. IN THE SINGER SEWING MACHINE CASE.—The result then of the American, the English and the French doctrine universally upheld is this, that where, during the life of a monopoly created by a patent a name, whether it be arbitrary or be that of the inventor, has become, by his consent, either express or tacit, the identifying and generic name of the thing patented, this name passes to the public with the cessation of the monopoly which the patent created. When another avails himself of this public dedication to make the machine and use the generic designation, he can do so in all forms, with the fullest liberty, by affixing such name to the machines, by referring to it in advertisements and by other means, subject, however, to the condition that the name must be so used, as not to deprive others of their rights or to deceive the public, and therefore that the name must be accompanied with such indication that the thing manufactured is the work of the one making it, as will unmistakably inform the public of the fact."

It has been decided by the courts again and again that

"When an article is made that was theretofore unknown, it must be christened with a name, by which it can be recognized and dealt in, and the name thus given it, becomes public property, and all who deal in the article have a right to designate it by the name by which it is recognizable." (Lelanche Battery Co., 23 Fed. Report, 227.)

called his machine the "Singer Sewing Machine." The function of a trademark is to point out the manufacturer, or, in other words, to point out the *brand.* When a manufacturer permits his own name to become part of the name of an article it is no longer capable of pointing out brands of such article. It has become by the act of the manufacturer part of the common language and, therefore, public property.

We have many familiar examples of a person's name becoming a mere indication of a certain article or class of goods. Wellington, Brougham, Stanhope, Manton and Dover, are personal names that have given us the "Wellington boots" the "Brougham" or the "Stanhope" carriage, the "Blucher" boots, the "Manton" fowling piece, and "Dover's" powder.

The fact that a man may lose the exclusive use of his own name in connection with the manufacture and sale of an article of commerce has been decided by the courts so many times that no one versed in law would attempt to contest it. The Singer Sewing Machine case is by no means the only instance, as reference to the law libraries will show.

If our position on this subject is sound it logically follows that the names "phenacetine," "salol," "aspirin," "lanolin," and hundreds of other names appearing in medical literature and claimed as trademarks by the manufacturers, are not trademarks in fact, but appellatives and therefore public property. The Supreme Court in its Singer Sewing Machine case decision* points out the fact that when a name has become by the consent of the manufacturer, either express or tacit, the identifying and generic name of the thing patented, this name passes to the public with the cessation of the monoply created by the patent. The manufacturers of these products have never protested against the use of their so-called trade names by the medical profession and the public as appellatives. On the contrary, they have not left a stone unturned to force their names into scientific literature as appellatives for the purpose of converting the educational machinery of medicine and pharmacy,—colleges, text books, medical and pharmaceutical periodicals—into a great advertising bureau for commercial exploitation and free advertising. Certainly by their consent these names have become public property if the decision of the United States Supreme Court referred to means anything.

What we want to protect is not monopoly in the manufacture and sale of *products.* What we want to protect is property in *brands.* We believe that when a new chemical product is invented or discovered, the real invention or discovery is in the *way of making it,* rather than in the product itself. The science of chemistry has determined before hand that the union of certain elements in certain proportions will result in the production of certain substance, the exact composition of which every chemist has foreknowledge. But the orginal research necessary to work out the process partakes of the character of an invention, and the exclusive right to the process should be granted to the inventor for a definite period of years. And we believe that the manufacturer of the original brand should be protected in the use of a word-mark to distinguish his brand; also that each brand as it appears on the market should be distinguished in a similar manner.

But the product itself, and its currently used name, or names, should never be granted to the exclusive use of anybody. As stated by Browne in his work on Trademarks, such a grant "would be giving a copyright of the most odious kind, without reference to the utility of the application or the length of the title, and one that would be perpetual. Neither the trademark law nor the copyright law, nor the patent law, affords any such right, or under the pretense of the same, allows anyone to throttle trade under the alleged sanction of the law."

The word-marks "Eagle," "Star," and other brand marks, as applied to "Eagle

*See footnote.

Brand Condensed Milk," "Star Brand Braid," etc., are not open to the objection of being the names of products. They are clearly the names of brands. In the same manner there might be several brands of acetphenetidin, as the "Phenacetine brand of Acetphenetidin," etc., etc. But the use of trade names in this legitimate fashion is not what the manufacturers want. What they want is to force their coined names into the common language as nouns, and at the same time hold on to them as trademarks. In other words, they want to "eat their cake and have it, too."

In the light of the above statement it is evident that the attempt of "proprietary" manufacturers to create and maintain monopolies in unpatented articles of commerce by claiming as private property the currently used names of such products is an invasion of public rights. Because the public is ignorant, indifferent or unmindful of its rights does not mitigate the offense in the least.

F. E. STEWART, Chairman,
S. L. HILTON,
W. BODEMANN,
J. W. ENGLAND.

In this connection, the following separate statement by J. W. England is attached:

The coined name of a chemical compound becomes, by common usage, its descriptive name or title, and the granting of product-patents to inventors, as in this country, forever estops all other inventors from *marketing* the same compound, no matter how new and original their process of manufacture may be. The second inventor can patent his process of manufacture, but he cannot patent the *product*, because it has already been product-patented by the first inventor. The privilege of product-patenting is not granted in Germany and other countries; only the process of manufacture.

Thus, in our country, invention is discouraged, instead of being encouraged, and the American people are prevented from obtaining the full fruits of the inventive genius of their own inventors.

Unquestionably, when a product-patent for a chemical compound prevents the marketing of the same chemical compound made by an entirely different process of manufacture than the one patented by the first inventor, *such product should have the right of sale in this country;* and to ensure this, Congress should give the Commissioner of Patents the right to suspend the life of a product patent whenever such conditions exist. Such action would in no wise discourage invention; it would encourage it, and this is, or rather should be, the chief function of all patent legislation.

The following separate statement by Frank H. Freericks, a member of the Commitee, is attached, also:

With his well appreciated kindness and consideration Chairman Stewart does not refer by name to the objector mentioned in his report. However the circumstances do not permit that I shirk the responsibility which every member of a Committee should feel.

I do not question at all the citations of Chairman Stewart made to sustain his position, but I would point out that every case which may be cited for that purpose must be regarded in the light of its particular facts. Freely do I admit, that I have not devoted the thought, time and study to this subject as has our Chairman, but nevertheless I take the liberty to point out that I am not yet willing to agree to his conclusions of what the law is.

That my position in that respect cannot be altogether wrong is best evidenced by the fact that our Chairman deems it necessary by statutory amendment to make the law what he now claims it to be. If the law now is what he claims it to be, then there would be no need for amendment. The law is common sense or ought to be. It is not in keeping with my sense of justice and with my common sense, if I have any, to make it impossible to exploit proper medicines of a proprietary character in the expectation of special profit, when such is regarded to be in keeping with the highest principles in other commercial lines. I believe that a man may serve the public quite well by introducing to them a proprietary medicine of

special merit as he may serve by acquainting them with a proprietary food of special quality. In either case I believe him entitled if he will run the risk of great loss for the purpose of introducing his article, to the exclusive profits which may result from such special endeavor.

However it is primarily my contention that we should not be concerned so much with deciding upon specific changes in the present law, until after there has been a fair understanding and agreement of what such changes in justice ought to be. I make the point that this phase has not had the general consideration which it deserves, and incline to believe that a large proportion of the American pharmacists and of the American public will be unwilling to approve some of the amendments proposed if they have a clear understanding of what they mean and lead to. In my humble judgment this Committee should seek to bring about a better understanding of the facts, and when an understanding of the facts has been generally arrived at it will be time to turn to legislative remedy for evils which may be agreed to exist.

H. R. 19187.

In the House of Representatives, October 8, 1914, Mr. Paige of Massachusetts introduced the following bill; which was referred to the Committee on Patents and ordered to be printed.

A BILL—To amend sections forty-eight hundred and eighty-six and forty-eight hundred and eighty-seven of the Revised Statutes, relating to patents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-eight hundred and eighty-six of the Revised Statutes, as amended by Act of Congress approved March third, eighteen hundred and ninety-seven, be, and the same is hereby, amended so as to read as follows:

"SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country before his invention or discovery thereof or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law and other due proceedings had obtain a patent therefor: *Provided,* That no patent shall be granted on any application filed subsequent to the passage of this Act upon any drug, medicine, medicinal chemical, coal-tar dyes or colors, or dyes obtained from alizarin, anthracene, carbazol, and indigo, except in so far as the same relates to a definite process for the preparation of said drug, medicine, medicinal chemical, coal-tar dyes or colors, or dyes obtained from alizarin, anthracene, carbazol, and indigo."

SEC. 2. That section forty-eight hundred and eighty-seven of the Revised Statutes, as amended by Act of Congress approved March third, eighteen hundred and ninety-seven, and as further amended by Act of Congress approved March third, nineteen hundred and three, be, and the same is hereby, amended so as to read as follows:

"SEC. 4887. No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declard invalid, by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than twelve months in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and four months in cases of designs, prior to the filing of the application in this country, in which case no patent shall be granted in this country.

"An application for patent for an invention or discovery or for a design, filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery, or design in a foreign country, which, by treaty, convention, or law, affords similar privileges to citizens of the United States, shall have the same force and effect as the same application would have if filed in this country on the date on which the application for patent for the same invention, discovery, or design was first filed in such foreign country: *Provided,* That the application in this country is filed within twelve months in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and within four months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on an application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than two years before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country, for more than two years prior to such filing: *Provided, however,* That in case any drug, medicine, medicinal chemical, coal-tar dyes or colors, or dyes obtained from alizarin, anthracene, carbazol, and indigo, on which a patent for a definite process for the preparation thereof has been granted on any application filed subsequent to the passage of this Act, is not manufactured in the United States by or under authority of the patentee, within

two years of the granting of said patent, and after the commencement of said manufacture the same is not continuously carried on in the United States in such a manner that any persons desiring to use the article may obtain it from a manufacturing establishment in the United States, then said patentee shall have no rights under the patent laws of the United States as against any citizen of the United States who may import such drug, medicine, medicinal chemical, coal-tar dyes or colors, or dyes obtained from alizarin, anthracene, carbazol, and indigo into the United States or who may produce or manufacture the same in the United States or who may handle for sale or use such article so imported or manufactured."

Chairman Freericks: You have heard the report of the Committee on the Revision of the Trade-mark and Patent Laws. What is your pleasure? First of all it will be proper to make a motion of some sort with reference to the report as it is now before you, and it will then be open for discussion.

Dr. Anderson: I have not a patent or trade-mark on these motions, Mr. Chairman, but I think it is necessary to have a motion in reference to it. Therefore, I move that the report be referred to the Committee on Publication. Seconded by Mr. Phillips.

Chairman Freericks: The Chair will ask his associate to act for a short time. Miss Zada M. Cooper then presided.

ABSTRACT OF DISCUSSION

G. H. P. Lichthardt: Two or three years ago I became quite interested in the subject of trademarks and patents as regards the granting of trademarks and patents on medicinal products; and I went quite thoroughly into the matter and corresponded with Chairman Stewart and he was quite kind enough to send me some rather lengthy communications on the subject. And after I had spent a good deal of time and effort I knew very little about the subject, in fact, very little more than when I started, that is, from the practical standpoint, and I feel quite as helpless today. I would like to get, in condensed form, the gist of the actual situation under our present laws, and what might be accomplished, what it is aimed to accomplish, or what is aimed to be accomplished in correcting those laws where they need correction.

I hope the discussion will bring out something really helpful and something that the ordinary layman can understand on the subject. This question of trademarks not only affects the American pharmacist, but the American Medical Society is working on it and has been for a long time. I think as long ago as 1912 the then President of the United States, William Howard Taft, spoke to the Section on Applied Chemistry and Patent Laws.

It seems to me, that the trademark, is simply a notice to the world that you have adopted thus and so. I am not very familiar with the national trademark laws, but I think the state laws are somewhat similar. It is not the name that you trademark, but it is the way it is written. I have several trademarks myself, and it is the design that you trademark and not the name. Is not that your understanding of it, Mr. Freericks?

Mr. Freericks: That is correct with reference to trademark, yes. I do not want to take up much time to refer at length to the subject. I feel rather out of place in speaking on it at all since Chairman Stewart is not here. It would be very much better if he were here, for then the discussion would not be a one-sided affair. I think Mr. England is much in accord with the views of Dr. Stewart and possibly he will do all the calling down that can be done. I am heartily in accord with the proposition that our patent laws should be amended along the line as just pointed out by the previous speaker, but my point first of all is that we have been devoting years and years discussing patent and trademark cases and you can ask wherever you will and nobody knows anything about it. They are all ready and willing to have the patent and trademark laws changed. But it is not the proper way of getting at the thing; it is a serious, very serious matter. My point is that we should know more about the facts of the trademark and patent laws, and we should not simply start off by leaving it to the Committee and taking it for granted that that Committee is properly going to represent this body. It is not fair to the Committee. It is not fair to the pharmacists of the country. It is not fair to the public, and it is not fair to ourselves.

And now with respect to the point raised about the trademarks: It is quite right. A trademark is truly a mark of some sort, some individual design that can be claimed to distinguish one man's goods from another man's goods.

But do you know that it is the tendency of your committee and others to take a wrong position,—now, I am going to name a substance,—not because I favor it particularly but it just come to my mind.

Do you believe it best, do you believe it fair, that after millions of dollars possibly have been spent to place a proprietary before the public of this country that you and everyone else should make this preparation?

Now, that is exactly what is proposed and I think it is unfair, and there is where we are making the mistake.

It affects every retail pharmacist in this country.

Many of you have preparations that you take pride in and that you have a right to take pride in. Do you think it unfair or not, that your neighbors and others should go out and make that preparation? If it had not been for you the public would not have had that merited product. And when I do that, I have taken the risk; it has been my money that has made that material known to the public, and it is nothing short of robbery to take that away from me. It is this view that I am trying to bring home to you. And if you pharmacists are not careful, you are going to have an amendment in the trademark laws of this country that will make that possible.

Mr. Binz: I heartily concur in the general statement because I have had some experience in trademark goods. I do not want you to infer from that, that I want to advertise my business at all, but it just happens to be an instance that will bring this home.

I happen to get out an Oil of Eucalyptus in the southern part of the state, an Oil of Eucalyptus which is better than the ordinary run of Eucalyptus. I have spent about five years detailing this oil among the physicians. I used no trademark. I have been sorry for years past that I did not do so.

You can go from one druggist to another and you can pick up perhaps twenty grades of eucalyptus oils and no two of them are distilled from the same variety. That is one reason why I have fallen down with the higher grade of eucalyptus oil. I did not have protection. I think that any man who makes a specialty of an article should be protected with a trademark, for the druggist never will protect him.

Mr. G. H. P. Lichthardt: I feel we are getting at least some definite expression on one point: That is, regarding copyrighting specific names, proprietary names. I agree with our Chairman, when a man spends a great deal of money in advertising a product that he ought to be protected; that when this preparation is prescribed or ordered, it should be supplied every time; but I do not believe that because this certain named compound has been exploited,—that we should prevent anyone else from putting up a similar compound and marking it under some other name. As regards Mr. Binz: He could market his product as "Oil of Eucalyptus,—Binz," and the druggist is bound to dispense the product when it is so prescribed, otherwise he is substituting. But he should not be protected in giving him a monopoly, preventing others from putting up oil of eucalyptus, or an oil which might be superior to his oil of eucalyptus, and prevent you from getting such a product. I do not just know how those points are covered by our present patent and trademark laws.

I would like to ask if there ever has been any effort made to run down the status of the trademark, that is, in the legal way, having a committee appointed to really find out what it is and where it is and where we are?

Mr. Freericks: The Chairman of this Committee, Dr. Stewart, has been at work on that for years, and for the information of all, I would say that of the many men connected with pharmacy there has been no one who has given that matter more study than Dr. Stewart has given it.

As is so often the case, and that is where we make our mistake, we appoint a committee, and the committee seeks to do its work, but the Chairman after all is the one who must do the greater part of it.

I merely call it to your attention and I apologize for expressing a personal opinion now; but the trouble is that the Committee has not been given sufficient authority; the difficulty is

that the committee on trademark and patent law revision has not been given the proper scope; that is, the membership has not given that committee, and particularly the Chairman, the attention that he has a right to ask for and he ought to have.

And if upon the report that the Chairman of the Committee on Trademark and Patent Law Revision makes annually, there would be the right discussion and expression of opinion, and if the membership generally would study the subject, in two years the pharmacists of this country would thoroughly understand the trademark and patent laws and the changes that ought to be made.

But each of you, I am sure, who have been connected with the Committee, have found yourselves doing faithful work and piling up much in the way of statistics and valuable information, and when you make up your report everybody is really pleased and they say, "Yes, we will receive it and approve it," but that does not help your committee.

It is agitation, a difference of opinion, that will bring that out, and I am hopeful that that will be done in the next year, and then, I am sure, we will understand the patent laws and trademark laws as they ought to be understood.

General Secretary Day: I have been very much interested in this subject, although, in common with some of the others present, I have not a very deep knowledge of it; but there is another phase to the proposition presented by the Chairman so ably.

With regard to a proprietary, ought there not be a limitation as to time for which a trademark would hold good? Isn't it a fact that trademarks now are practically perpetual?

After a time the trademarked word may become a common word of the language, and then have we not a right to provide for the use of similar preparations under that established name? There is a question whether we ought not be permitted to put on the market our own brands of certain proprietaries, after the preparation has reached a degree of common usage which brings the word into the language as a common word.

Mr. Lichthardt: Now, that is something definite: If a trademark confers perpetual rights under our trademark laws then the law in that respect should be amended, as Professor Day points out, so that a phrase or word that becomes practically part of the English language,—common usage—does not confer perpetual proprietary rights in that article. Now, that seems to be a perfectly clear proposition. While I have the floor I am going to dwell on another phase of trademark and patent laws, and I think the present time is the psychological moment to spring trademark changes and patent changes on the United States Congress because of the European war. I have particularly in mind the situation as regards chemicals, particularly German chemicals patented in the United States. Take for example, Salvarsan; Salvarsan is patented in this country also trademarked and copyrighted; I know it is fully protected.

While the originators of Salvarsan are protected in every possible way by the United States, the United States is not protected in any sense. We can not manufacture Salvarsan in this country. And our trademark laws evidently do not provide that the product should be manufactured in this country after a reasonable time; a reasonable time after the granting of the patent as is the case in some other countries, namely, England and France, I understand.

Now, they are making Salvarsan in Japan; making it in two or three different cities in Japan, and they are deriving the benefit of Salvarsan there, as they are also in Great Britain, where they are making Salvarsan and bringing it out under a different name, but at the same time, they are making it.

Here in this country we are absolutely helpless; even though we could make it, we are not permitted to, and moreover we are not permitted to import Salvarsan, which is made in Japan or Great Britain. I think there is something radically wrong.

We not only grant the trademark or patent privileges, but we also have to pay an excessive price.

There seems to be something very necessary there in the amending of our patent law. Of course, I do not pretend to be familiar with the subject, but it would seem to me that a very necessary amendment to our patent law is, that where a foreign product is protected by a United States patent, that product should be made in this country, so that when a condition occurs as at present in Europe, we can make the product and give the people who need that

product, that particular chemical, the opportunity of using it without being charged an excessive price for it.

Mr. England: I have listened to the discussion which took place from the different angles, and I am more than sorry that Dr. Stewart is not present to give us the benefit of his very wide knowledge on the subject. He is a walking encyclopedia on the subject of trademark and patent laws, and I could not begin to express his opinions here. It requires a man on the ground who has the technical education today to give a correct opinion.

The ground has been so fully covered by Mr. Day and Mr. Lichthardt that I do not think it is necessary to refer to the phase of the discussion covered.

Just one thought: And I think Mr. Lichthardt has struck the crux of the whole situation in that respect. He cited Salvarsan as a common example, as an illustration of patent misuse.

The *process* for making Salvarsan is patented in this country. Salvarsan as a *product* is patented in this country. The *title* is copyrighted in this country or given the protection of a trademark.

If some country discovered a new method of making it they couldn't patent it or sell the product, and it seems to me that is one feature of the patent laws which needs correction; and the one feature which particularly needs correction is the amendment of the *patent product law.*

This country stands face to face with a great dearth of coal tar products. Many of these are patented in this country, and, as Mr. Lichthardt shows, they can be made in Japan and they can be made in England and France, and they can be imported into this country, but not sold, because the products are patented.

If we are going to develop restrictions in this manner around industry in this country it will result in its being stifled. I believe we shall have to amend these laws so as to give to our manufacturers the same right that Germany gives its manufacturers. Germany has no product patent law. England has no product patent law.

In order to stimulate our chemical industries, we will have to amend our laws; it will be necessary to adopt some law of protection.

I believe in protection, protecting the men in the industries. I do not believe we will ever have development of the chemical interests of this country until they have full protection.

Note the difference between the wages that the German laborer or employee receives and the corresponding difference between the American laborer and employee.

In Germany chemists command very small salaries, but in this country relatively high salaries are paid and they are scarce at that.

The raw materials cost about the same. Much of the raw material Germany uses in the making of chemical compounds comes from this country.

Mr. Binz: I think, as Mr. England does, and Mr. Lichthardt, that the amendment should be predicated in the patent law, like the copyright and trademark law. I think the copyright and trademark law is just to the manufacturer, but I do not think the German chemist should be allowed to patent his product or his way of manufacturing and prevent it from getting into the United States, or prevent it from being manufactured.

Mr. Freericks: Not to take up any further time on that point, but to make one point clear, I would say that there is a distinction between the registration of a label and a trademark. We have the two provisions, and we may have the registration of a label or the printed name appearing on a label, and we may have a trademark; but a trademark is altogether different from the registration of a name. I merely speak of that so there will be no misunderstanding.

The vote was called for and carried.

Mr. Freericks then resumed the Chair.

Chairman Freericks: The next paper will be the report of the Committee on Drug Reform. This paper or report is presented by Chairman L. E. Sayre of that Committee.

Chairman Freericks then read the report.

REPORT OF THE COMMITTEE ON DRUG REFORM

For the fifth time, your Committee on Drug Reform offers to the Association an annual report. From the first year of its appointment by President Rusby, the Committee has groped its way hesitatingly, as in darkness, not having a clear definition as to its function. Former reports will show that the Committee has outlined its own course and prescribed the limits of its works.

The Committee has endeavored to keep in touch and, as far as it was able, work with those who were promoting better and more uniform legislation in Food and Drug Control; with those who were endeavoring to promote a better and higher education for pharmacists, and to offer its help in promoting the cause of drug culture in the United States. The term "Drug Reform," to make it comprehensive, might mean anything that would tend to improve present conditions in the whole realm of pharmacy, but to act on such a broad program at one time would simply lead to ridiculous superficiality and, therefore, your Committee has concentrated the little work it has done in a very few directions only.

It may be said in passing that a letter from one of the members of the Committee, Albert Schneider, in reply to a request for his contribution to this report, says: "I am now engaged in preparing a bulletin on the *Cultivation of Belladonna in California* which will be published by the University. This bulletin will be the theme of my report on the cultivation of medicinal plants." This phase of the report, your Chairman suggested to Professor Schneider to be his contribution. Professor Schneider has certainly had every experience in this work, contributing time and money to the same.

Your Chairman endeavored to secure through legislation in Kansas a new Pharmacy Law, which was considered by the legislative committee a model law, improving the present law now in force. The legislator, who was a pharmacist and who had in charge this model law, insisted that there should be a provision in it that the registered pharmacist and the assistant pharmacist should have pursued to successful conclusion a course of four years' high school study, or its equivalent. The Chairman advised him that he thought this would be opposed. The law also provided that every dispensing practitioner of medicine should keep a copy of his prescriptions in his office for at least two years. The doctors of medicine of the Committee on Hygiene and Public Health gave their support, believing that it would be objected to only by lazy physicians. The Section IX also provided that the regulation under which the State Board of Pharmacy is now operating, permitting it to issue a merchants' license to others than registered pharmacists when there is no pharmacist within four miles of such a merchant's place, should give authority to sell the usual domestic remedies and medicines in unbroken packages, not including any article included in Schedules A and B of the Pharmacy Act. Other sections of the bill refer to the sale of narcotic drugs and were framed to meet the requirements of the Harrison Law. Mr. C. A. Mosher, who was the champion of the bill, a pharmacist, writes of its fate in substance, as follows:

Referring to the vigorous attack of the legislature he says:

"The first gun fired against the bill threw a shot from miles beyond our ken into the high school requirement. One ally thought that high school graduates should be reserved to fill up the ranks of school marms as fast as decimated by stenography and marriage. Another thought that high school graduates 'ought to be taught to plow.' And all were agreed that my maids and lads did not need more than 'Readin', Ritin', or 'Rithmetic' to permit them to thrust their hands into the intricate mechanism of health and life.

"The various death-dealing missiles were thrown thick and fast—the legislators called them amendments; the first of these read as follows: 'All persons, firms, or corporations are hereby prohibited from selling or keeping for sale in any drug store in this State, any goods, wares, or merchandise other than medicines as defined in this act.' This shot almost 'killed the bill,' but a final blow was struck by one who has stood as a legal protector of the

drug peddler, and the legislative oppressor of physicians and pharmacists of Kansas. This final blow was presented in the form of another amendment reading as follows: 'Providing that nothing herein contained shall be construed as requiring a pharmacist, registered under existing law, *or having practiced pharmacy as proprietor in Kansas for ten years,* to take an examination.' This motion, having passed, was followed by a final one to strike out the enacting clause—which put the almost lifeless thing out of its misery."

In connection with the anti-narcotic law, your Committee has had considerable correspondence and has endeavored to give instruction in regard to it to those who were not clear in their mind as to its varied application. Your Chairman has met with various local medical organizations, to which pharmacists have been invited, where the law has been under discussion. So much active interest has been evinced in this restriction of sale and distribution of habit-forming drugs that we are now facing a mass of legislation which calls for an effort to produce uniformity—one that will promote the effective coöperation and harmonious regulation of commerce in the handling of narcotic drugs throughout the United States. So much has been said in the Journal of this Association and current pharmaceutical magazines in regard to bringing all State laws in conformity with the Harrison Act, that your Committee believes it unnecessary to do more than call attention to the draft of what is known as the N. A. R. D. State Antinarcotic Law prepared by a committee consisting of Dr. J. H. Beal, Frank H. Freericks and Hugh Craig; this draft is intended "to serve as a body of well considered provisions from which selections may be made for use in states where existing laws need to be revised." In this connection, attention should be called to articles published in the Journal of this Association (June, 1915, Pp. 702 and 707), by M. I. Wilbert and Charles Wesley Dunn. Mr. M. I. Wilbert says, in his contribution, in regard to "greater uniformity," it should be borne in mind that the Federal Antinarcotic Law is not restricted to Federal territories and to inter-state commerce, but is uniformly applicable and in force in all parts of the United States, therefore it is manifestly unnecessary to re-enact in the several states any part or all of the Federal Antinarcotic Law. Such enactment would only tend to duplicate the penalties that might be imposed.

Mention should be made also in this connection, of the activity of special committees of the Chamber of Commerce of the United States, a report from which has recently been issued on "A Proposed Uniform State Narcotic Law." Mr. B. L. Murray, of Merck & Company, is Chairman of the Sub-Committee on Drug Control. Your Committee has been in correspondence with him and desires to recommend that your future Committee shall, in every way consistent with its functions, coöperate with him and other agencies which may tend to bring about the end above mentioned.

Confirmatory to the Sherley law, a far-reaching legislative act (Senate Bill No. 229) was passed by the recent Kansas legislature which makes it a criminal offence to publish or circulate in the state, whether by newspaper, by label or otherwise, any statement regarding merchandise offered to the public, which is in fact untrue, deceptive or misleading. It will be interesting, to say the least, to see how far-reaching this new law will be when applied by the proper authorities. It suggests to our minds the idea which Prof. James H. Beal had in his address before the North Carolina Pharmaceutical Association under the caption of "A Fury for Legislation." He says in substance: "We have drifted from 'the largest field for individual initiative and the most untrammeled opportunity' into that of making 'each citizen a ward of the state and to guard and direct his every act and ambition as if he were an irresponsible and heedless infant.'" On the other hand we may say in reply to this idea that present restrictive legislation is exposing the abuses of the unscrupulous, who have taken advantage of the freedom vouchsafed us by our forefathers, and the present paternal regulation, which we shall have to bear with patience, is a burden thrust upon us by our common humanity.

It is perhaps unnecessary to say, in regard to the Stevens' Bill, that the drug trade is enthusiastically favorable to it. It will aid those who are obliged to cut prices for self-protection as well as those who are resisting the pressure to do so for the same reason. One of the most prominent of price cutters in Kansas stated to your chairman that he would vigorously support the Stevens' Bill—that he had never cut prices from choice but was forced to it by department stores, which employed this means of advertising.

To all concerned, it should be stated again and again, that this bill will *never* become a law unless retailers exert themselves and give active moral support to those who are endeavoring to promote its enactment.

There are many topics which your committee might present for study of the future Committee on Drug Reform. Your chairman will endeavor to name some of these:

1. The average druggist is showing less and less originality in his profession; is depending more and more, entirely upon the manufacturer even to the purchase of such preparations as Tincture of Ginger and Essence of Peppermint. What may this Committee do to remedy this loss of originality and initiative leading eventually to complete atrophy?

2. The handling of remedial agents by wholesale and retail grocers is becoming more and more pronounced, leading to the distribution of substandard and deteriorated goods such as sweet spirit of nitre, hydrogen peroxide, etc. What may be done along legislative lines to prevent this injustice to the public?

3. Many of the nostrums formerly advertised in the daily papers, such as crystos, spurmax, etc., also articles consisting of inexpensive ingredients having exorbitant prices, are becoming to an extent controlled by the application of the Sherley Act. What may be done by your future Committee to urge the more general application of this Act?

4. Grave injustice is caused to the public by advertisements in cheap magazines and some of the lodge journals which continue to publish fake medicine advertisements; for example, Dr. Grain's cure for deafness (found to be a solution of potassium iodide). For the betterment of such conditions this Association should systematically co-operate with the work of the American Medical Association.

The report of the British Pharmaceutical Parliamentary Conference on Proprietary and Patent remedies, a summary of which was published by J. H. Beal in the February issue of the Practical Druggist, should be studied by every pharmacist. The findings of this committee are not by any means encouraging to the proprietary and patent medicine interests. The recommendations of this committee seem to your chairman fair and even liberal. We would recommend that this report of Professor Beal's be reprinted in the Journal of this Association and widely circulated.

Respectfully submitted for the Committee,

L. E. SAYRE, Chairman.

Chairman Freericks: You have heard the report of the Committee on Drug Reform, and it is before you. What is your pleasure?

General Secretary Day: I move that the report be accepted and referred to the Committee on Publication, and that the recommendations be approved.

The motion having been regularly made and duly seconded, and the question put, the same was declared carried.

Chairman Freericks: The next order of business is a paper by Prof. Arny.

Prof. Arny: I move that it be read by title and referred to the proper committee for publication.

The motion was seconded by Mr. Binz, and the question having been put, was declared carried, and the paper was read by title and referred to the Committee for publication.

Chairman Freericks: The next paper is by Wilhelm Bodemann, and since the Chair feels deeply obligated to Mr. Bodemann for writing this paper, he would ask the privilege of reading it.

After discussion the paper was referred to the Publication Committee.

Chairman Freericks: The next paper is by Mr. Hugh Craig on the N. A. R. D. model anti-narcotic bill, a subject in which we are all interested. Mr. Thiesing is here and he has kindly agreed to read this paper for Mr. Craig.

THE N. A. R. D. MODEL FOR A STATE ANTI-NARCOTIC LAW

HUGH CRAIG, CHICAGO.

Because of the many requests received at the office of the National Association of Retail Druggists from pharmacists interested in legislative activities in their respective states, who desired some basis for the construction of a state law to supplement the federal anti-narcotic statute, and in recognition of the fact that the soon-to-open sessions of some forty state legislatures would be the occasion of a multitude of endeavors to put some sort of anti-narcotic measure upon the statutes, the N. A. R. D. executive committee, at the meeting held in December, 1914, invited Dr. J. H. Beal, Frank H. Freericks, Esq., and Hugh Craig to serve as a special committee to prepare a draft of a model for a state anti-narcotic law. The outcome of the endeavors of this committee was the draft which has come to be known as the "N. A. R. D. Model Anti-Narcotic Bill," the name being a bit inappropriate as the draft is not advanced as a model bill but as a model for a bill. This draft has been printed in full in the *Journal of the American Pharmaceutical Association*, in the issue of May, 1915; and in the same issue of the *Journal*, appeared an able analysis of its provisions by Dr. J. H. Beal. Any detailed reference to these provisions is, therefore, herein unnecessary, and such reference as needs be made to them will, of course, be a repetition in part of the text of Dr. Beal's article.

In the first place the purpose of the N. A. R. D. draft is to promote uniformity among the anti-narcotic laws of the several states and the Harrison law. Uniformity, with reference to the several states, is very important because of the unavoidable condition of law-evasion which obtains near the borders of two or more contiguous states whose statutes do not provide equally for the regulation and restriction of traffic in narcotics. If a person may cross from New York to Jersey City, or vice versa, and in the latter city obtain narcotics more readily than in his home community, and carry them into New York to dispose of them in an illegal manner, the effectiveness of the New York regulations is seriously impaired, despite the attempt at the restriction of interstate traffic made in the Harrison law. At best only the illicit distributor can be apprehended and punished; the source and channel for further traffic are not closed. The necessity for uniformity in general provisions of a state law and the federal act is clear to anyone who has had to attempt compliance with different provisions.

In appreciation of the fact that many existing state laws need but slight alteration to make them effective supplements of the federal act, the committee constructed a somewhat expanded form of draft from which desirable sections might be selected as amendments to the existing law. This form of draft was also considered best adaptable to revision as necessitated by local conditions or desires, because changes in any one or several provisions or their deletion would not effect the general purpose of the draft or disrupt its coherence.

The committee had in mind the necessity for the regulation of every channel for the distribution of narcotics and, as well, that for reducing to a minimum the opportunity for possessing these substances for immoral and illegal purposes. It is this last-mentioned necessity which, above all others, justifies the preparation of this draft. Many have argued that the federal anti-narcotic law

removes the necessity for state laws relating to the traffic in narcotics. This willingness to hand over to a paternalistic federal government the entire regulation of an intrastate practice is too patent an indication of a let-the-other-fellow-do-it attitude, a too complete relinquishing of state's rights. Also there is every indication that the federal law, in its provision to restrict the possession of narcotics, not had for purposes of sale or other disposal, constitutes an illegal encroachment upon the rights of the several states. Already the majority of decisions in the federal courts have been antagonistic to this extension of federal supervision. Not alone in this but in a number of other instances is it clear that intrastate traffic in narcotics can more effectively and more reasonably be regulated by a properly constructed state law than by the Harrison law and the regulations incident thereto.

In one point at which the N. A. R. D. draft differs from the federal law and on which the Harrison law has been assailed with an apparent indication of the act being changed, is the regulation of the dispensing of narcotics by a physician. It seemed to the committee that to discriminate against the exclusive office practitioner, whose numbers are large in every city, was uncalled for, and that the distinction in this regard should be drawn along the same lines as the exemption of preparations. Therefore the exemption of the physician, proposed by the committee, is based upon the quantity of the narcotic disposed of. These quantities are arbitrary, although sufficient for every legitimate purpose, and may, of course, be changed to suit the ideas of pharmacal bodies in any particular state.

The prescribed preparation is not discriminated against in this draft, as is, unfortunately, the case in the Commissioner of Internal Revenue's interpretation of the Harrison law. In general, the treatment of the dispensing of narcotics in pursuance of prescriptions is the same in this draft as in the state laws of recent enactment, although a stricter accountability is laid upon the possessor of narcotics, who might allege that they were obtained in a legitimate way, by specific requirements relative to the labeling of drugs dispensed on a prescription and possessed in consequence of such dispensing. Pharmacists are relieved from responsibility for the authenticity of prescriptions if they have exercised due care in the scrutiny thereof.

In the matter of exempting preparations containing minimum quantities of narcotics, the N. A. R. D. draft obviates the condition which was largely responsible for Treasury Decision 2213, denying exemption under the Harrison law to extemporaneous prescribed preparations, by providing that exemption shall extend only to preparations which contain other medicinal substances in admixture with the narcotics. The exemption also applies only to preparations containing but *one* of the opiates in the specified proportion (the same as the Harrison law). The right to sell these preparations is not, however, extended indiscriminately, itinerant vendors and storekeepers located less than a mile distant from a drug store or a physician's office being denied this right, and storekeepers located so as to escape this prohibition are required to obtain a license from the state board of pharmacy. A similar license is required to be obtained by wholesale dealers, manufacturers, and hospitals which do not employ a licensed pharmacist, physician, dentist, or veterinarian to supervise the handling of narcotics.

Specific definition is given of all those who in any manner may deal in or possess narcotics and also of their respective rights. Misrepresentation for the purpose of evading these definitions is made illegal. In this manner the operations of bogus concerns and the assumption of false professional titles is guarded against.

In making proof of possession *prima facie* evidence of dealing in the proscribed substances, in providing for the punishment of individual members of firms and corporations and of agents, and in relieving prosecutors from the

obligation of negativing exemptions, the draft does much to assure the effective enforcement of its provisions. The enforcement of the provisions is entrusted to the state board of pharmacy and public prosecutors, the board of health being given power to supervise the practice of physicians in the treatment of addicts to the use of a narcotic. There can be no question but that the efforts of the board of pharmacy in connection with the enforcement of an anti-narcotic law will be received with better grace by pharmacists, than would the efforts of a board of health, because the former body may more reasonably be expected to have the peculiar appreciation of pharmacal practice, and medical practice as well, which is so necessary to guard against unreasonable procedure. That the assistance of public prosecutors is necessary need but be mentioned in view of the general recognition of the limitations of boards of pharmacy in funds and agents.

Constructed with an ever-present purpose to correlate effectiveness and reasonableness, the N. A. R. D. model for a state anti-narcotic law affords a valuable basis for the work of legislative committees of pharmacal bodies, who are confronted with the necessity of preparing a draft for a state law to meet a widespread demand for the enactment of anti-narcotic legislation, or are disturbed by the furtherance of measures of this sort, by well-meaning but poorly informed advocates. The draft is not offered as an ideal model; but, as a foundation for real constructive work, it offers the result of careful deliberation. Insofar as the committee which framed it and the association which stands sponsor for it are concerned, there is no intention of cramming the full, unrevised text of this draft upon any who may be engaged in the consideration of anti-narcotic legislation, and assistance will be gladly extended to those who desire to make changes in it.

Chairman Freericks: You have before you the paper of Mr. Hugh Craig on a model anti-narcotic law. What is your pleasure?

Mr. Weinstein: I move that it be received and that it take the usual course. Motion seconded by Mr. Binz.

Chairman Freericks: Are there any remarks?

The motion having been regularly made and duly seconded, and the question called for, the same was declared carried.

The next paper is by Dr. Fischelis on "Providing Needed Education."

Professor H. V. Arny then read Dr. Fischelis' paper. This paper was published in the October number, page 1235.

Chairman Freericks: You have heard the paper, what is your pleasure?

Prof. Arny: I move that it be referred to the Committee on Publication because it should not only be published, but there may also be some ideas contained therein worth considering.

President Mayo: I suggest it be referred to the Committee on Publication with the approval of the Section; the added suggestion that it was approved by the Section would cover the ground.

Seconded by Mr. F. W. Nitardy.

Mr. Lichthardt: There are two very excellent ideas in it. First, to send out these bulletins to the newspapers. It will probably have to be done in a small way at first, and sent to the very prominent papers. It is a very excellent idea. That is the way to deal with the problems that we were dwelling upon a little while ago with respect to the dispensing physician.

Now, on the matter of abstracts. In the Scientific Section we prepared abstracts; that is, Mr. England and myself, on all the papers but two, I think, which

were submitted and the authors of which were absent, and instead of just reading the paper by title we read the abstracts and it gave those present an idea of what the paper contained. It is a much better idea to prepare the abstracts and publish them in the Journal before the meeting, and it will very likely do away with some objectionable papers.

The motion having been regularly made and duly seconded, and the question put, the same was declared carried.

Chairman Freericks: There has been referred to this Section from the Commercial Section, that is, from the general session to the Section on Education and Legislation, and then to the Commercial Section and from the Commercial Section to this Section, a most interesting paper by Dr. A. O. Zwick of Cincinnati. The Chairman of your Commercial Section and your present Chairman feel under obligation to Dr. Zwick because this paper touches upon a subject of vital concern to pharmacy as treated by a physician.

This paper is really presented in answer to the raising of the question as to whether prescription charges,—the prices as fixed on prescriptions—have not something to do with the growing evil of dispensing by physicians. The paper does not answer the question either one way or the other directly; but that was the thought, and I want to submit it to you for future consideration, to let you know how important a thought it is.

Moved by Dr. Anderson, and seconded by Mr. Nitardy, that the paper take the usual course.

Chairman Freericks: Now, the last thing on the program, outside of the election of officers, is the report of the Voluntary Conference for Drafting a Modern Pharmacy Law.

We appreciate fully what is necessary in order to take up the subject intelligently, but a report has been prepared showing the progress of the work to date, and I believe it will be interesting.

REPORT OF THE VOLUNTARY CONFERENCE FOR DRAFTING MODERN LAWS PERTAINING TO PHARMACY.

F. H. FREERICKS, CHAIRMAN.

Impressed by the frequently expressed need for greater uniformity in the several state laws concerning pharmacy, and for making such laws more in keeping with general advancement and progress, the Chairman of your Section on Education and Legislation by and with the co-operation of his associates and the Secretary undertook to commence that work. It was agreed that a very general interest from every state would need to be created and to that end it was deemed essential that the co-operation of every state association and state board of pharmacy should first be sought with a view of forming a voluntary conference in which every such state association and state board of pharmacy would be represented by one member.

Shortly after the last annual convention of the A. Ph. A., at Detroit, the Chairman of your Section submitted an outline of the intended work to the presidents of every state pharmaceutical association and state board of pharmacy, and requested each of them to name a representative for their respective association or board, who together would then constitute a voluntary conference under the auspices of the Section on Education and Legislation. Almost without exception the responses were most hearty, and the interest shown most general.

Some few pointed to the fact, that in the states from which they came the present laws were fairly satisfactory, but in such cases in keeping with the great majority who responded it was agreed that more uniformity in state laws was highly desirable, and new features might be added in order to better safeguard the public interests and welfare. It is with no small measure of satisfaction that we point to the fact that forty-two (42) state pharmaceutical associations, and forty-four (44) state boards of pharmacy through their presidents appointed members to the Voluntary Conference. The list of members so appointed is separately shown in connection with some new provisions now under consideration by the Conference, and which are attached to and made a part of this report. It should in that connection be mentioned that owing to the death of Mr. James O'Hare of Rhode Island, President Armstrong of the Rhode Island Association named Mr. Frank A. Jackson to fill the vacancy thus created. Owing to the inability of Prof. Hemm of Missouri to further serve, the vacancy thus created was filled by the appointment of Mr. Chas. E. Zinn.

In outlining the work of the Voluntary Conference it was at first thought possible to present a complete draft of laws pertaining to pharmacy at this meeting to be expressive of the best opinion of at least a majority of the Conference members, but within the past six weeks this has been found to be hardly possible and certainly inadvisable. After the Conference members had been generally appointed they were requested to submit changes which they deemed necessary in their respective present state laws and to suggest new features for a compilation of modern laws such as they deemed desirable. Responses in this connection were quite general, and temporarily holding in abeyance the amendments thought necessary to the existing laws in different states, attention was first given to the new features which seemed desirable. Suggestions for such new features were put together and then again submitted to all of the Conference members, to find a fairly general approval. After such fairly general approval of such suggestions they were drafted into more concrete form so as to secure an idea as to the scope and extent which might meet with the views of the membership. Unfortunately because of the mass of correspondence and the incident delays which always come when many are concerned, it was not possible to present these new features in such concrete form in time to have them find consideration at all of the state meetings held within the past two or three months. In some few states where they reached in time and where they might have been considered, the work already outlined for the conventions made it impossible to give the necessary consideration, while in other states they were most thoroughly considered and discussed. Since a complete draft of laws will be largely dependent upon the new features, which are found desirable, and since it is deemed of prime importance that such new features be discussed at this convention, it has therefore been decided that they should at this time be first and separately submitted, together with such criticisms and suggestions as have been made by state associations and state boards which have found opportunity to consider them. There are eight of such new provisions at present under consideration, and these are in printed form and have or will be distributed to all who are now present, so that they may find intelligent consideration and discussion, properly constituting a part of this report as already stated. It must be understood that the separate provisions as herein and herewith presented have not been put in their final and most concrete form, the thought being to simply submit a fair outline for ready understanding, and even if the separate provisions meet approval, in their present form, it is deemed likely that the phraseology can be much improved.

To this time it has been reported that the State Association and in some instances the State Board of the states of Colorado, Massachusetts, Ohio, Pennsylvania, South Carolina and Washington have given thorough consideration to the new provisions as presented in concrete form. In addition they have been

thoroughly considered by representatives in the conference from California, Connecticut, Illinois, Michigan, North Carolina, North Dakota, and have found some consideration by the Missouri State Association. The representative from California does not approve Provisions 1 and 2, but in general approves all of the other provisions. The Colorado State Association and State Board approve Provisions 1, 2 and 3 and in part 4 and 5. They disapprove of 6 and 7 because opposed to Reciprocal Registration, and withhold action on Provision 8. The Connecticut Board of Pharmacy in general approves all of the provisions. The Massachusetts Association approves all of the provisions except No. 5, believing that Provision No. 5 would force the prerequisite, which does not seem to be favored. The Michigan State Board and State Association representatives favor all of the eight provisions, but doubt the possibility of securing the first three as a law. The Illinois and North Carolina Association representatives approve all of the eight provisions in the strongest terms. The North Dakota Representatives approve all the provisions, expressing the opinion, however, that some change should be made to provide Reciprocal Registration for those who were registered as pharmacists before the college prerequisite was adopted. The Missouri State Association approves the provisions in a general way, but indicates that they think well of their present law. The Ohio State Association approves the principles of the eight provisions, with a clear understanding and marked satisfaction. The Pennsylvania State Association and Board approve the first seven provisions, but disapprove the eighth provision, believing that all laws pertaining to pharmacy should be enforced only under the supervision of officials connected with pharmacy. The South Carolina Association unanimously approved all of the eight provisions. The Washington Association and apparently its Board of Pharmacy approved the first seven provisions, excepting that in Provision No. 5 they favor a course of study of 1800 hours instead of 1200 hours. No action was taken with reference to Provision No. 8, because it was believed doubtful that a change might be secured in the Washington law where the enforcement now rests with the Department of Agriculture. Comments were also received from Dr. James H. Beal, which are of a general nature, but whose further help in the work of the Conference will be of great advantage.

Your chairman would now recommend:

1st.—That the new provisions submitted find consideration at this time.

2nd.—That the Voluntary Conference be continued under the auspices of the Section on Education and Legislation, until the work is finally completed with the presentation of a draft of Modern Laws Pertaining to Pharmacy.

3rd.—That an appropriation of $100.00 be allowed the Section for the coming year to continue this work.

4th.—That with such changes as may be decided upon, the eight new provisions be referred back to the Voluntary Conference under the chairmanship of the chairman of the Section on Education and Legislation elected for the new year.

5th.—That with such changes as may be decided upon, the provisions be submitted to the National Association of Retail Druggists, the Conference of Pharmaceutical Faculties, the National Association of Boards of Pharmacy, and to other National Associations which are concerned with pharmacy. Also to the American Medical Association and to all of the State Medical Associations, their particular attention being directed to the first three and to the eighth provisions. That in submitting the provisions for such consideration they be accompanied with a request for an expression of opinion concerning such as may be of special interest.

In conclusion attention is directed to the fact that nearly all, if not all, of the provisions herewith submitted for further consideration, in some manner affect special interests. It is understood or rather must be taken for granted, that there will be opposition to the provisions even if generally approved by retail

pharmacists and by the legitimate members of the medical profession. In one form or another such opposition has already been evidenced. It must be in mind, too, that such opposition may not always be in the open, for at times special interests can best attain their purpose by keeping themselves in the background. In this entire work the aim must be primarily the public welfare and its needs. Selfish aims, whether on the part of retail pharmacists or some of the other branches of pharmacy, or those engaged in medicine, are unworthy of the work which has been undertaken.

VOLUNTARY CONFERENCE FOR DRAFTING MODERN LAWS PERTAINING TO PHARMACY.

Under the Auspices of the Section on Education and Legislation of American Pharmaceutical Association. Frank H. Freericks, Chairman; R. A. Kuever, Secretary; W. S. Richardson, George B. Topping and Zada M. Cooper, Associates.

Conference members appointed by Presidents of State Associations and Boards of Pharmacy.

Representing State Associations:—Alabama, L. L. Scarborough; Arizona, Thomas E. Thorpe; Arkansas, A. L. Morgan; California, D. R. Rees; Colorado, A. W. Clark; Connecticut, S. M. Aller; Delaware, Albert Dougherty; District of Columbia, W. S. Richardson; Florida, W. D. Jones; Georgia, Herman Shuptrine; Idaho, Rosco W. Smith; Illinois, Prof. C. M. Snow; Indiana, A. F. Sala; Iowa, George D. Newcombe; Kansas, C. C. Reed; Kentucky, Robert J. Frick; Louisiana, Joseph W. Peyton; Maryland, James E. Hancock; Massachusetts, Ernest O. Engstrom; Michigan, John H. Webster; Minnesota, Charles H. Huhn; Mississippi, A. S. Coody; Missouri, Prof. Francis Hemm; Montana, J. A. Riedel; Nebraska, Charles R. Sherman; Nevada, H. J. Duncan; New Hampshire, Edwin C. Bean; New Jersey, George M. Beringer; New Mexico, G. S. Moore; New York, Dr. William C. Anderson; North Carolina, L. W. McKesson: North Dakota, W. S. Parker; Ohio, Waldo M. Bowman; Oklahoma, A. W. Woodmancy; Pennsylvania, S. C. Henry; Rhode Island, James O'Hare; South Carolina, F. M. Ellerbe; South Dakota, D. F. Jones; Tennessee, Edw. V. Sheely; Texas, Sam P. Harbin; Utah, James L. Franken; Vermont, W. R. Warner; Virginia, Walter G. Williams; Washington, Prof. Charles W. Johnson; West Virginia, Walter E. Dittmeyer; Wisconsin, Prof. Edw. Kremers.

Representing State Boards of Pharmacy:—Alabama, W. E. Bingham; Arizona, T. L. McCutchen; Arkansas, Frank Schachleiter; Colorado, Frank E. Mortensen; Connecticut, John A. Leverty; Delaware, Reuben M. Kaufman; Georgia, Charles D. Jordan; Idaho, T. M. Starrh: Illinois, Frederic T. Provost; Indiana, Jerome J. Keene; Iowa, David E. Hadden; Kansas, W. S. Henrion; Kentucky, Addison Dimmitt; Louisiana, E. H. Walsdorf; Maine, Frank T. Crane; Maryland, J. Fuller Frames; Massachusetts, Albert J. Brunelle; Michigan, Leonard A. Seltzer; Minnesota, R. L. Morland; Mississippi, T. O. Slaughter; Missouri, Charles Gietner; Montana, W. R. Montgomery; Nevada, Robert L. Prouty; New Hampshire, Herbert E. Rice; New Jersey, Lewis W. Brown; New Mexico, B. G. Dyne; New York, Warren L. Bradt; North Carolina, W. W. Horne; North Dakota, H. L. Haussamen; Ohio, Edward Voss, Jr.; Oklahoma, J. C. Burton; Oregon, J. Lee Brown; Pennsylvania, Lucius L. Walton; Rhode Island, Howard A. Pearce; South Carolina, H. E. Heinitsh; South Dakota, F. W. Halbkat; Tennessee, O. J. Nance; Texas, W. H.Cousins; Utah, John Culley; Vermont, Wilfred Root; Virginia, W. L. Lyle; Washington, D. B. Garrison; West Virginia, Alfred Walker; Wisconsin, Edward Williams; Wyoming, C. B. Gunnell.

PROVISIONS FOR THE DRAFT OF MODERN PHARMACY LAW UNDER CONSIDERATION BY THE VOLUNTARY CONFERENCE FOR DRAFTING SUCH A LAW.

It will please be understood that such of the provisions as may find general approval are intended to be embodied in a complete draft of laws pertaining to pharmacy, which shall include all of the desirable provisions which are found at present in the best and most complete pharmacy laws of the several states. It of course is in mind that some provisions of a Modern Pharmacy Law, particularly the provision with reference to the College

Prerequisite Law, will not be deemed desirable in all of the states, and it is understood that features which are not adapted for some of the states can be discarded by such states when they would consider the draft of a Modern Pharmacy Law as a basis for adoption or changes. It will please also be understood that some of the separate provisions as herein submitted for consideration are entirely independent of each other, and that only such provisions should be considered together as by their text show that this must be intended. Finally, it will also please be in mind that it will not be the aim to discard any more exacting requirement which may be found in some of the present pharmacy laws, but to the contrary it will be the aim to have any of the provisions herein which may be found to be desirable, fit in with such possibly more exacting requirements as now may exist. In considering what should be contained in a Modern Pharmacy Law it is submitted that we should be controlled only by the public need and welfare and by the need of correct pharmacy within reasonable limits. The thought that desirable features may be strongly opposed by special interests should not hinder us from promulgating such desirable and necessary features. Let us first decide upon what within reason is desirable and necessary, and thereafter decide upon ways and means for best securing enactment into law. We may find determination and strength in the fact that whatever public welfare requires and fairness demands will ultimately be accomplished.

Provision No. 1.—All chemicals and drugs, the maximum adult dose of which according to standard authorities on medicine or materia medica is one drachm or less either fluid or solid, as also compounds and preparations containing such chemicals and drugs, and inclusive specially of Morphine, Opium, Heroin, Chloroform, Alcohol, Cannabis Indica, Hydrated Chloral and Acetanilide, or any derivatives or preparations of said substances, are hereby defined to be of potent character: Provided, that drugs herein not specially named, the maximum adult dose of which is greater than one (1) drachm, but containing active principles of lesser maximum adult dose, as well as compounds and preparations of such drugs, shall be construed to be of potent character only when they contain the isolated active principle as such, and not as a constituent of the original drug.

NOTE.—If there are to be legal restrictions over those who would sell so-called patent and proprietary medicines it is essential that some legal ground be found upon which such restriction can be constitutionally based. If the right of sale and distribution is to be limited to qualified people, the means must be provided for bringing into use the special knowledge of such qualified people, and this can be done only by ready information about the contents of active drugs. At the same time it is all-important to avoid unfairness and the destruction of property rights by requiring publication of complete formula. It was therefore decided to submit a definition for potent drugs, as supplemented by the further requirement to show on the label the actual contents of potent drugs, which gives opportunity for the application of special knowledge pertaining to their use as remedies.

Provision No. 2.—All chemicals, drugs, their compounds and preparations, of potent character as herein defined, when intended for use as medicines, shall be dispensed, distributed or sold only in containers bearing a label for ready inspection, upon which such potent drug content is plainly shown, as also the percentage of such drugs contained therein: Provided, that when such chemicals and drugs are dispensed in keeping with a written record as made by a licensed physician, dentist or veterinarian, and such written record is retained or filed by the pharmacist, physician, dentist or veterinarian, the label requirement herein shall be satisfied when the container of the chemicals and drugs so dispensed contains a number or mark, corresponding with a number or mark on the written record, so that it may be readily identified.

NOTE.—The aim of this provision is to require all packages of medicines to show their contents of potent drugs, no matter by whom prepared or distributed at retail. An exception is made with reference to medicines supplied by or on the order of a physician, dentist or veterinarian. In every such case, however, whether the medicine is dispensed by a physician or by a pharmacist, a record must be made, either on a prescription blank or in a record book, to show the potent drugs which have been dispensed, and the container is then to be identified by a number corresponding with a number on the prescription or other written record. It will be noted that this plan contemplates no distinction between so-called patent medicines and medicines supplied by or on the order of physicians, it being deemed alike important and a public need that it can always be determined what potent drugs a patient may be taking, or may have taken.

Provision No. 3.—All chemicals, drugs, their compounds and preparations, when of potent character as herein defined, when intended as medicines, except as hereinafter provided, shall be dispensed and sold at retail to the consumer only by or under the supervision of a registered pharmacist; compounds and preparations of such chemicals and drugs shall be compounded and prepared only by or under the supervision of a registered pharmacist. All such chemicals, drugs, their compounds and preparations, when intended for distribution or sale at retail as medicines in their original packages, shall be labeled to show that they have been prepared by or under the supervision of a registered pharmacist. When imported into this state for sale at retail, they shall in like manner show that they have been prepared by or under the supervision of a pharmacist licensed or registered at the place where compounded or prepared. Such chemicals, drugs, their compounds and preparations, when compounded, prepared and labeled in their original packages as herein required may be dispensed or may be dispensed from and sold by registered physicians, dentists and veterinarians without showing on the label by whom compounded or prepared: Provided, also, that such chemicals, drugs, their compounds or preparations, when compounded, manufactured or prepared by or under the supervision of a registered pharmacist, may be sold or dispensed at retail in communities or places located at least — miles distant from a registered pharmacy, by storekeepers licensed for that purpose by the Board of Pharmacy.

NOTE.—Under this provision it is the principal requirement that all medicines containing potent drugs must be compounded by or under the supervision of a registered pharmacist. This applies alike to so-called patent and proprietary medicines, as also to all medicines dispensed by physicians. It would require every patent and proprietary manufacturer and manufacturer of pharmaceuticals to have at least one registered pharmacist in charge. It would not interfere with the dispensing of medicines by doctors, but would require that the medicines which they dispense are prepared under the supervision of a registered pharmacist, and would prevent them from compounding their own medicines unless they are also registered pharmacists. It would restrict the sale at retail of all medicines containing potent drugs, other than those dispensed by physicians to their patients, exclusively to registered pharmacists, excepting in communities where there are no registered pharmacists within a certain distance, and at such places storekeepers duly licensed by the Board of Pharmacy would be permitted to sell such medicines when compounded under the supervision of a registered pharmacist.

Provision No. 4.—The State Board of Pharmacy shall consist of five members to be nominated by the State Pharmaceutical Association, and to be appointed by the Governor, etc., at least three (3) of whom shall be graduates of a reputable College of Pharmacy, and all of whom shall be actively engaged in retail pharmacy, having had at least ten (10) years of practical experience therein, the requirement for college graduation not to be applicable to those who at present are members of the existing State Board of Pharmacy.

Provision No. 5.—Colleges, Departments and Schools of Pharmacy, to be recognized as such by the State Board of Pharmacy, shall require for graduation a course of study of at least two (2) years, such two year course to be divided by an interim of at least two months, and to provide for at least twelve hundred (1,200) hours of study. They shall have a Chair in Pharmacy, Chemistry and Materia Medica, each in charge of a professor having besides the necessary special learning and training either an academic or scientific degree, or both, from some reputable institution of learning: Provided, that nothing contained in this Section shall apply to those who when this Act becomes effective are or have been teaching in Colleges, Departments or Schools of Pharmacy.

Provision No. 6.—The State Board of Pharmacy may in its discretion grant Certificates of Registration to persons who furnish proof that they have been registered by examination in some other state, and that they are of good moral character, provided, that such other state in its examination requires the same general degree of fitness as is required by examination in this state, and that the applicant qualifies in all other respects as is required for registration by examination within this state, and provided also, that such other state or states in like manner grant reciprocal registration to pharmacists and assistant pharmacists of this state. Applicants to the State Board of Pharmacy for Reciprocal Registra-

tion shall defray all necessary expense for making an investigation into their character and general reputation, as well as pharmaceutical standing in the state where they formerly resided, such expense of investigation not to exceed the sum of ten (10) dollars, and for the purpose of such investigation and report thereon, the State Board of Pharmacy may secure the service of individuals or associations who are engaged in the work of compiling such information, at an expense not to exceed ten (10) dollars in each separate case. In addition, an application for Reciprocal Registration shall be accompanied by an original registration fee of $10.00, which shall be refunded in case registration is not granted.

NOTE.—It is the aim of this provision to allow a Pharmacist registered by examination in a state not having the College prerequisite, to become registered in another state which has such College prerequisite, if the applicant can prove that in addition to his registration by examination he also is a graduate of a recognized College. This provision also looks to placing the activities of the National Association of Boards of Pharmacy on a legal basis within each state by permitting that the information which said Association is prepared to furnish regarding an applicant for reciprocal registration, may be secured by the different State Boards at an expense not to exceed $10.00, which must be paid by the applicant for reciprocal registration.

Provision No. 7.—In order that the State Board of Pharmacy may be informed, and properly determine the status of the Boards of Pharmacy of other states desiring Reciprocal Registration, and that it may be generally advised regarding progress in pharmacy throughout the country, the said Board shall annually select one of its members, who shall meet with like representatives of such other State Boards of Pharmacy, as may be arranged, for the purpose of discussing and determining the degree of fitness required by such Boards, and the general advancement as made in Pharmacy. The expense of such representative shall be paid and allowed as are all other lawful expenditures of the members of the Board of Pharmacy. At meetings arranged for between the representatives of this State Board of Pharmacy with the representatives of other State Boards of Pharmacy desiring reciprocal registration there may be adopted uniform regulations and requirements which are deemed desirable by each of said representatives for their respective states to govern reciprocal registration, but such rules and regulations shall not be construed as based upon agreement by an official of this state with officials of other states, and they shall be binding only if adopted by the State Board of Pharmacy as its own rules and regulations, and then only to govern within this state as the result of independent decision on the part of the State Board of Pharmacy, without any agreement by or with other State Boards of Pharmacy. The representative of the State Board of Pharmacy as such shall not enter into or join in the formation of any association depending upon agreement between the officials of this state with the officials of other states, but this shall not be construed to prevent such representative in his individual capacity from joining or being a member of an association which may be constituted of the representatives of State Boards of Pharmacy, also acting in their individual capacity. Any association so existing which is engaged in the compilation and study of the work of State Boards of Pharmacy, and which has for its object the general advancement of pharmacy and the keeping of records pertaining to the reciprocal registration of pharmacists, may at the discretion of the State Board of Pharmacy be given such information as it possesses pertaining to such aims and objects. The State Board of Pharmacy at an expense not to exceed one hundred ($100) dollars annually may subscribe for and secure the services of an association engaged in the compilation of pharmaceutical information and progress specially adapted for securing the greatest efficiency in the work of said Board.

NOTE.—This provision aims first of all to specifically legalize the expense of representatives of Boards of Pharmacy in meeting with representatives of other Boards of Pharmacy. It avoids agreement between officials of the several states which might be unconstitutional, and yet allows representatives of State Boards in their individual capacity to belong to an Association which is organized for the purpose of compiling and disseminating information of value to all of the several State Boards of Pharmacy. Finally, it permits the several State Boards of Pharmacy to subscribe for the services of such an Association, thus indirectly defraying the expense of maintaining it. In order to legalize such expenditure, the Association of Boards of Pharmacy is placed on the basis of a Bureau of Information, which renders needed service for an annual consideration, just as a Commercial Agency renders service to Commercial Enterprises, for an annual subscription fee.

Provision No. 8.—There shall be established within this state the office of a Drug Commisisoner, who shall be selected and appointed at a joint meeting of the State Medical Board and the State Board of Pharmacy by said Boards. He shall hold office for a term of five (5) years, until his successor has been appointed, subject to removal for incompetency or other good cause. Subject to the authority of the State Boards of Medicine and of Pharmacy in joint meeting, it shall be the duty of the Drug Commissioner to enforce the Pure Drug, Poison and Narcotic Laws of this state, and for that purpose he may employ chemists, inspectors and other necessary employees within the appropriations allowed him for the enforcement of said laws. Within thirty (30) days after this Act is in force it shall be the duty of the President of the State Board of Pharmacy to call a joint meeting of the members of the State Medical and Pharmacy Boards, at the capital of the state and at a place to be designated by him, such meeting to be called on a notice of at least ten (10) days. At such joint meeting, it shall be the duty of the members of both said Boards to attend, they shall organize by selecting a President, Vice President and Secretary of said joint boards. The Secretary of either the State Medical Board or the State Board of Pharmacy, as decided at said meeting, shall act as the Secretary for said joint boards, he shall be allowed such extra compensation as may be decided, not to exceed the sum of one hundred ($100) dollars annually, and it shall be his duty to keep a separate book of the Minutes and Proceedings of said joint boards. Said boards shall meet in joint session at least annually, and at such other times as may be decided at such joint meetings, and also at the call of the President. If membership on said respective boards be of unlike number, the members of the board having the largest number shall collectively have no greater number of votes than there are members of the smaller board. In the absence of agreement in the selection of a Drug Commissioner at joint meetings held for that purpose, such failure to agree shall be certified to the Governor, who thereupon shall make the appointment. It shall be the duty of said boards in joint meeting to adopt rules and regulations to govern them for the purpose of such joint meeting, and to govern the Drug Commissioner in the performance of his duties. At the annual meetings of said boards in joint session after becoming fully informed as to the needs and requirements in that respect, said boards in joint meeting shall decide upon the annual appropriation to be paid out of the funds of the state necessary for conducting the office of the Drug Commissioner, and shall submit the needs for such annual appropriations to the proper committee or committees of the General Assembly for suitable action by it.

NOTE.—The enforcement of Drug, Poison and Narcotic Laws should be under the control and supervision of those who have special knowledge pertaining to them and their correct use. In nearly all of the states this important need is ignored. Physicians and pharmacists are equally and primarily interested, and in many respects such laws must govern them alike. It therefore has been deemed advisable by some, that the supervision and enforcement of such laws should be under the control of the recognized Medical and Pharmaceutical Authorities. The thought has been expressed also that by thus bringing together the State Authorities concerned respectively with medicine and with pharmacy, there will be greater opportunity for mutual understanding and more friendly relationship between the two professions.

Now, the Chair would like to state that it would be within your province to adopt the recommendations that appear in this report, other than those that have become impossible of adoption because of existing conditions, and a motion of that kind, to that effect, would be entertained.

Moved by Mr. Nitardy and seconded by Mr. Godding that the recommendations numbers 2, 3, 4 and 5 contained in the report of the Voluntary Conference for Drafting a Modern Pharmacy Law be adopted and that the report be referred for publication..

The motion having been regularly made and duly seconded, and the question put, the motion was declared carried.

Chairman Freericks: I wanted to report on the provisions of a Modern Pharmacy Law, but this will have to go over until next year. The last thing

on the program will be the election of officers. I understand this has to be by ballot. At the last session the nominations were closed for that session and further nominations are in order for all of the offices.

Dr. Anderson: I move that the nominations be closed finally and that the Acting Secretary be instructed to cast the ballot for the Section for the election of the officers nominated.

Seconded by Mr. Nitardy.

The motion having been regularly made and duly seconded, and the question put, the same was declared carried.

The Acting Secretary then cast the unanimous ballot of the Section for, Chairman, Frank H. Freericks; Associates, Louis Emanuel, Zada M. Cooper, and C. H. Packard, and for Secretary, R. H. Kuever.

There being no further business before the Section, a motion was made to adjourn, and the same having been duly seconded and the question voted, the Section thereupon adjourned sine die.

BACK-FIRING.

To many who have read the much over-written case of the Chicago infant who recently came into and went out of this world with certain deformities, the question doubtless occurred: What would the followers of Mrs. Eddy do in such a case? Logically the followers of this cult would have done just what happens to have been done by the physician in charge: Nothing. And the result, of course, would have been the same. Possibly because this line of thought is rather obvious, the *Christian Science Monitor* devotes over a column to the case. Under the sonorous title *"Ave Medicus Imperator,"* this journalistic champion of Mrs. Eddy's doctrines belabors the medical profession, charging that "the place of Caesar as a dispenser of life and death is to be taken by the modern physicion," and, further, that "the hospital is to usurp the position of the arena." The article, of course, is wholly in the nature of a back-fire. The poor human mite, whose short but tragic life and equally tragic death have proved such a boon to the sensational newspapers and such a grief to the thoughtful, really "passed over" strictly according to the tenets of Mrs. Eddy's disciples. We assume, naturally, that even the most rabid of that sect would hardly claim that thought-waves, either long or short range, would remedy a congenital deformity. The baby died because "treatment" was "absent."—*Journal A. M. A.*