

## REPORT OF COMMITTEE ON DRUG REFORM.

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L. E. SAYRE, CHAIRMAN.

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The Committee on Drug Reform—reappointed to serve a third term—has done little more than clear the way for future work. A new Committee will, it is hoped, find itself in a favorable position to accomplish some definite results. The fact that nothing very tangible has been thus far accomplished, may seem cause for unfavorable criticism, but no public movement of any significance can take place without a preceding period of uncertainty and agitation. The time covered in preparation is often long when compared with that needed for the final action; when general feeling has been aroused against an evil, reform is certain to follow, unless the evil be one so complicated that it baffles ordinary abilities. The evils against which your Committee on Drug Reform has been especially directed, though not simple by any means, do not present difficulties so complicated as to discourage action.

Of these evils, reference should be made to the one arising from the practice of those who are shielded in a great measure from the application of the law regulating drug standards. That the Dispensing Doctor is thus shielded in many ways, is no theory. One of this class was informed that a certain fluidextract of belladonna, gotten outside the state, which he was dispensing, was less than half alkaloidal strength. He replied that this article gave him satisfactory clinical results, and that was all he wanted; further, he had no use for the Pharmacopeia nor its standards. The State Food and Drug Commissioner when informed of this said, in substance, "It is very unfortunate, but the law does not require the physician's stock to be inspected—he is a law unto himself!" It may be said that this is an exceptional case, but those who have carefully studied existing conditions, think otherwise. Mr. C. F. Nixon, Leominster, Mass., in a recent report<sup>1</sup> states, "Physicians are dispensing enormous quantities of tablets, many of these are bought of houses of little responsibility and are of doubtful worth." In a recent issue of the American Druggist, reference is made to heroin tablets without heroin, morphine tablets without morphine, terpine hydrate elixir without any terpin hydrate, etc., being dispensed by physicians who are more careful of price than of the quality of drugs they buy. However, be they few or many who evade or disregard drug standards by virtue of their professional position, the condition referred to furnishes a loop-hole for the introduction of a sub-standard material, which practice your Committee, when first appointed, was especially commissioned to suggest means of reform.

The efforts of your Committee during the past year have met, in the main, with cordial approval from both professions, pharmacy and medicine. Some critics, not being fully informed, have made the accusation that the Committee is attempting to create a monopoly for druggists as medical dispensers, but the absurdity of such a criticism is apparent to anyone familiar with the Committee's work. Another class of critics, who should not be ignored, state that the efforts of your Committee is an impudent attempt to interfere with the inherent

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<sup>1</sup>Merck's Report, July, 1902, p. 193.

rights of the physician. Nothing is further from the truth. Your chairman is quoting almost verbatim the words of an intelligent layman, when he says: "No one can appreciate more than I the inestimable value of the services of the physician; no one can have greater respect for him as a public servant, none would be less inclined to restrict him in this service. But human life has been specially guarded by a commendable law, which applies to dispensers of medicine. If the physician, in addition to his practice, assumes the role of dispenser, he should be subject to the law that controls the latter. Against incompetence, against adulterated, misbranded and deteriorated drugs the public claim protection, whoever be the dispenser." A few correspondents have grave doubts as to the good to be accomplished by such agitation, when no further plan for action has been thought out. It is hoped, however, that after the first steps of reform have been taken, and general interest aroused, a plan of action will emerge.

One of the most difficult criticisms your Committee has had to meet comes from prominent men high in office in our association. They say, in substance, "The druggists are to blame for conditions which have brought into existence the dispensing doctor. How many stores in the state of Kansas, for example, are legally conducted, or are fitted for compounding and dispensing? Are there not many small towns with two or three drug stores, and not one of them able to perform the simplest operation in pharmacy in the proper manner?" Your Committee would reply: "If conditions in our ranks are thus deplorable, then it is all the more urgent that the public correct these conditions. To permit them to spread through these seemingly favored in the medical profession, is to increase the number of law breakers, instead of diminishing them. What the public may recognize as deplorable in the ranks of the pharmacist, it does not condone in the ranks of the physician. The Committee has no attack to make upon any class, its assault is against a reprehensible practice, a practice that furnishes a loophole for the evasion of the Food and Drugs law as well as an opportunity to elude the application of the pharmacy laws of the different states. To combat the above conditions, reputable manufacturers, pharmacists and physicians, should join the public in any efforts any Committee of Reform should put forth.

Toward this end, the chairman of your Committee, sanctioned by its members, has endeavored to secure the cooperation of the pharmacists of his state, and of the pharmacists of this Association in other states. Circulars and letters have been sent, asking the following questions:

1. Do physicians of your acquaintance dispense their own medicines?
2. Do they buy full standard preparations and drugs, or mainly proprietary remedies?
3. Are their goods inspected as in drug stores?
4. From what houses do they buy?
5. What sized stocks do they carry?
6. To what extent are doctors selling drugs and medicines on a call not actually prescribed by them?
7. Would your doctors prefer to dispense or prescribe?
8. What steps would you advise for the betterment of the aforesaid conditions?

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NOTE: That the public is served unwittingly by two standards is apparent to every one, when the law fails to provide for an inspection of the physician's drug stock. It is true that physicians may invite such inspection, but it is our desire to know how many physicians voluntarily give such an invitation.

9. Are your doctors in favor of, or opposed to the standardization law?

10. How are the physicians and druggists observing the spirit of the anti-narcotic law? Is the complaint of the former abusing their rights, and of the latter who are legally restricted, in dispensing morphine, cocaine, and narcotics to habitues, true?

11. To what extent are drugs and medicines sold in your town, by mail order houses and through clubs offering premiums?

12. Do other stores ever carry medicinal preparations of any kind? If so, what kind?

The material secured by answers to questions in circular letter, making up the burden of this report, was almost as varied as were the responses to Mr. C. M. Ford's article entitled "The Drug Store Crisis" (See Merck's Report, July, '12, p. 193). As these responses to Mr. Ford's rather pessimistic article have a bearing upon this subject of Drug Reform, they might profitably be read in connection with this report.

I shall take the liberty of summarizing the data collected in Kansas, reported at its State meeting, and condensing the 35 replies from other members of the Association in different parts of the country.

Number of replies in Kansas, 120.

Number of replies from outside, 35.

Different towns heard from in Kansas, 106.

Number of towns having prescribing physicians, 16.

Number of towns having dispensing physicians, 69.

Number of towns having both kinds, 28.

Of these, 12 towns report a majority dispensing; 14 report the minority dispensing and 2 report half and half.

Number of towns reporting no inspection of physicians' offices, 92.

Number of answers uncertain as to the inspection, 5.

Number of answers not knowing as to inspection, 5.

Number of those not answering this question, 18.

Almost all answers show that the physicians mostly buy from the various physicians' supply houses and chemical companies. Few only buy from well known drug houses and chemical manufacturing houses. Very few buy from the town druggists.

The size of stock carried ranges from \$100—\$300 as an average. Some are as low as \$50 and others as high as \$500 and \$1,000.

Few dispense on call.

29 towns report in favor of prescribing. 40 favor dispensing. 3 towns report their physicians expressing a desire to prescribe but still go on dispensing. 29 have some who favor dispensing and others who favor prescribing.

Almost all report their physicians favoring full standard.

The Anti-narcotic law is reported as being observed, almost universally.

In answer to the question "Do other stores ever carry medicinal preparations of any kind?" we find the following stores and clubs mentioned: Physicians' Supply Houses, Department Stores, Larkin Clubs, Ten Cent Stores, Itinerant Vendors, Feed Stores, etc.

A considerable majority of the physicians choose to do their own dispensing. There are two principal reasons for this decision on the part of the physician.

One is because he has lost confidence in the Pharmacist. The other has to do with a purely mercenary motive—the idea of commercial business which brings to him an added income. Under the guise of supplying something in which he has confidence, he is supplying something on which he can make a profit. The problem is touched upon in a paper read at a meeting of the Washington branch of the American Pharmaceutical Association in which the writer, W. A. Puckner, says:

“During recent years many physicians have been inclined to forsake their corner druggist, because he has been tried and too often found wanting, and have pinned their faith to pharmaceutical manufacturers and promoters of specialties and their detail men. Dependence on the specialty proprietors has, however, been disastrous—so disastrous that well informed men will have no more to do with the detail man. \* \* \* \* \*

“I am convinced that physicians fully appreciate the help which pharmacists can give them, and it only remains for the individual pharmacist to go to the individual physician and demonstrate that he is the one that may be relied upon. This plan of procedure, I am sure, promises much good both for the pharmacist and the physician.”

Information received in the course of this investigation leads to the conclusion that many of the doctors who do their own dispensing do so, not out of choice, but because others in the profession dispense. Though willing to give up that part of their practice, these physicians are not able to change the custom unless all doctors join with them in doing so. A law which would give these unwilling dispensing doctors support in their ideas, would probably bring about an alleviation of the present trouble.

If all physicians were convinced of the desirability of this reform, then a suggestion merely as to the desirability would be sufficient to assume accomplishment. But the fact that mere suggestion fails to bring about the end sought by those who recognize the necessity of improving conditions, shows that there are those who can be moved to reform only by the strong arm of the law.

Excerpts from the more lengthy letters are subjoined. Our local Secretary, C. M. Ford, has favored us with the following:

“I have in mind the list of queries from the Committee on Drug Reform aimed at the dispensing doctor evil. There is such an evil. It concerns the general public, and is not a matter for the pharmacists alone to become alarmed over. The dispensing doctor should be required to write and file his prescriptions. He should not be allowed to write a death certificate except jointly with another physician. If no other physician is called in and the patient dies while under the treatment of a dispensing doctor, the law should require an autopsy. \* \* \* \* \*

“Your committee should see that the iniquitous and absurd provision found in many state laws which permits the unrestricted compounding of ‘patent’ or package medicines be eliminated. These persons who compound these medicines as well as those who dispense them, should be registered pharmacists and their stocks and premises regularly inspected. Without a federal law prohibiting this patent trash in interstate commerce, state laws would not avail.”

In connection with Mr. Ford’s letter we would call attention to the growth of what may be termed mail order practice.

“Circulars and circular letters, typewritten, written in script and in all possible attractive forms of communication serve the public, through the mails, with all kinds of medicinal literature and through this large amounts of medicines, sometimes of a poisonous character, reach the homes of numerous families.

A victim of one of these mail order physicians was found one afternoon unconscious under the influence of a very powerful narcotic (?) which led to a request for an investigation of the medicine he had taken. The results of this investigation was handed to the patient and his friends.”

President Harry Brisley, Prescott, Arizona, writes :

"I believe the best remedy for existing ills would be found in a publication of national circulation, which would fearlessly champion our cause and vigorously oppose schemes tending to exploit the drug trade to its detriment. Present editors are carefully steering between points of least resistance, indulging in platitudes or resurrecting threadbare and dead issues, afraid to voice what they know to be vital facts."

Professor E. G. Eberle, Dallas, Texas, writes :

"In sending out letters to druggists I will enclose slips asking for information requested in your circular."\*

Professor Charles W. Johnson, Chemist for State Dairy and Food Commission, Seattle, Washington, writes :

"So far as we can see now, the Commission has the right to investigate such drug materials. When the investigation is completed, I can get data which will be of interest."

Professor E. H. La Pierre, Boston, Massachusetts, writes :

"What we know is one thing, and what we hear and cannot verify is another. I really feel that we are not suffering from this evil in this state. I am quite sure that any effort to put upon the statute books a law governing the condition at the present time would arouse a storm of resentment."

From a Doctor whose name is withheld by request :

"The remedy for the dispensing evils will come from the doctors themselves. Even now young men, graduated as physicians, look with scorn on the dispensing habit and inwardly disdain the practitioners who cling to it. A few short years, and the older physicians will be dead and retired. The newer ones will prescribe by degrees. The people will discover that the new men with new ideas are the best doctors, and the latter *will not have to dispense.*"

Caswell A. Mayo, New York, writes :

"The doctors will undoubtedly object very strenuously to the suggestion emanating from the retail druggists that their action should be subjected to any kind of supervision, but it seems to me that it could be put in such a way as to reduce to a considerable extent any opposition which may be aroused. The only way in which such a revision could be provided for would be the enactment of such a law as was proposed by the Kansas Association."

In this connection it may be well to quote the *Resolutions* referred to. They propose :

"Section 1. That any physician who shall sell, compound, dispense, administer, or give away, any medicine or remedy for or to any patient or other person, shall write a prescription or order for such medicine or remedy in such form as to be legally intelligible.

Section 2. The original or a copy of any or all such prescriptions written, in every instance of such dispensing, shall at the time thereof be supplied to such person, or patient, or any legal representative."

It will be seen that such a control would meet in part Mr. Ford's idea, and be a public protection safe-guarding the physician as well. The question is pertinent: Should not some legal record (given to patient or other legally qualified person) be made of the medical treatment? During the past year, several cases of suspicious malpractice have come to the Drug Laboratory. The only clue, to relieve the patient or the doctor, was the unused portion of the medicine dispensed, which was sent for analysis. It should not be construed as an "impudent interference" to ask that the physician himself, as well as the public, be protected.

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\* These slips, containing reports of conditions in Texas, have recently been placed in the hands of the committee, but no compilation of them has yet been made.

Letters from a great number of prominent pharmacists, offering their cooperation and encouragement, should be here acknowledged; these all show, not a narrow, selfish or sordid view of the subject, but evidently face the problem on the high plane of the public good.

It is the belief of your Committee that when the problem of irresponsible dispensing on the part of either pharmacist or physician is clearly understood, and when properly presented to our legislators, it will engage their attention and with them, and with the support of the people, we shall find a satisfactory solution of the problem.

Dr. Albert Schneider informs the Committee he hopes to submit a separate report as member of this Committee. He thinks the resolutions of the Kansas Association unnecessarily harsh "though the main idea is all right." He further believes that those resolutions should also deal with the prescribing and practicing pharmacist. Dr. Schneider has made suggestions from time to time regarding this Committee work, through the Pacific Pharmacist.

ALBERT SCHNEIDER,  
L. E. SAYRE,  
E. V. HOWELL.  
Committee.

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## REPORT OF THE COMMITTEE ON PATENTS AND TRADEMARKS.

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F. E. STEWART, CHAIRMAN.

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The decision of the Supreme Court of the United States, handed down March, 1912, although opposed by the dissent of three judges, the Chief Justice giving the dissenting opinion, settles the law in regard to the rights of patentees under the patent laws as they now exist.

The Court holds that under the present laws it is a good contract and enforceable when the owner of a patented mimeograph machine sells it with the condition annexed that the purchaser shall use in operating the machine only stencils, paper, ink and other supplies as sold by the patentee.

It is evident that this gives the patentee more than he is entitled to by enabling him to monopolize the sale in connection with his invention of articles unpatented and the sale of which is otherwise free.

It is further evident that such a power in connection with patents which approach the nature of necessities, is capable of abuse and creates unfair monopoly.

The eminent Chief Justice denounced this decision with indignant eloquence. The Attorney General asked the Supreme Court to rehear the case, but was refused. Impressed with the fact that the decision has opened the way to one of the worst forms of oppression which a monopoly can practice, the President of the