

## REPORT OF THE SECRETARY.

Secretary E. L. Newcomb made an exhaustive report of the work of the N. W. D. A. He gave an account of the routine work and also of his visits to many State and national associations. The Association has coöperated with the A. Ph. A. in giving support to Pharmacy Week and urging retailers to make proper displays in their stores because by this publicity mutual benefit results to retailers, wholesalers and manufacturers.

## REPORTS OF COMMITTEES.

The usual reports of value were presented at this session of the N. W. D. A. All of these

have more or less value to the retailer and to the drug trade in general. Price maintenance was endorsed.

## PRESIDENT GREINER'S ADDRESS.

*The Oil, Paint & Drug Reporter* of October 4th comments editorially on the address of President W. E. Greiner of the N. W. D. A. He dealt with all problems of the wholesale drug trade and as they relate to other trade activities. Among other things he suggested that there were too many wholesale drug houses but he did not make any specific recommendations as to how this might be remedied.

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**THE PHARMACIST AND THE LAW.**

DIGNIFIED ADMINISTRATION OF PERMISSIVE FEATURES OF THE PROHIBITION LAW, AND ENFORCEMENT BY COÖPERATION WITH STATES.

Brigadier General Lincoln C. Andrews, Assistant Secretary of the Treasury, in a speech in Philadelphia October 29th declared that the Federal Administration was proceeding with prohibition enforcement policy based on the assumption that "the people of these United States intend to carry on faithfully under the present form of government and will willingly reassume their duties and responsibilities under self-government."

With an enforcement policy predicated on the belief that the people will again turn to local treatment of local violations and violators, the head of the Federal Government's prohibition arm asserted that:

The Administration is actively working towards the day when the Federal Prohibition Unit will be a dignified, efficient organization engaged in the administration of permissive features of the law to the satisfaction of the business concerned:

There will be such close surveillance of possible sources of supply and avenues of traffic as will prevent the movement of liquor in quantity to any local jurisdiction, and

By coöperation with State, county and municipal authority, the Federal Government will help make possible a complete success of their "expressed desire to live as communities, free from the presence of that traffic in liquor which they have denounced as an evil element in the social existence."

NEW YORK DECISION PERMITS TRANSFER OF CERTIFICATE OF UNLICENSED PHARMACIST—OWNER OF A DRUG STORE.

A recent decision by Justice Ellis J. Staley of the New York Supreme Court directs transfer of the certificate of Morris Tucker, an unlicensed pharmacist and owner of a drug store in New York City. The points of the case are set forth and Section 234 of the Public Health Law is quoted. The ruling follows:

"This is an application for a peremptory order of mandamus, against the New York State Board of Pharmacy, to direct that board to transfer the petitioner's registration certificate from 41 Manhattan Avenue, Brooklyn, to 307 Warren Street, Hudson, New York.

"Prior to May 10, 1925, the petitioner owned and conducted a drug store at 41 Manhattan Avenue, Brooklyn, N. Y., under registration certificate issued to him by the New York Board of Pharmacy. The petitioner was not a licensed pharmacist.

"On or about May 10, 1925, petitioner was dispossessed from his drug store by certain legal proceedings brought in Supreme Court, Kings County.

"It further appears from the petition, that after petitioner was dispossessed he stored various merchandise from his drug store for the purpose of removing the same to a new store or a new location. On the 22nd of May, petitioner notified the State Board of Pharmacy, that he had been dispossessed and was looking for another location, and asked whether or not it was necessary for him to do anything in order to retain his registration.

"It further appears from the petition, that on or about the 15th day of August 1925, petitioner opened a drug store at 307 Warren Street, in the City of Hudson, N. Y., and removed the merchandise which he had stored to his Hudson store. The petitioner sent his registration certificate to the Board to have it endorsed over to his new address, but the Board refused to transfer the registration.

"The petitioner alleges the suspension from ownership and conduct of his drug store was the result of legal proceedings not voluntary on his part.

"The question presented is whether or not the statute relating to the licensing of drug stores contained in Section 234 of the Public Health Law requires the issuance by the Board of a certificate of registration permitting the petitioner to conduct the Hudson Pharmacy.

"Section 234 of the Public Health Law in so far as it relates to the matters here in issue is as follows:

'Every pharmacy shall be owned by a licensed Pharmacist and every drug store shall be owned by a licensed druggist; and no co-partnership shall own a pharmacy unless all the partners are licensed pharmacists and no co-partnerships shall own a drug store unless all the partners are licensed druggists; except that any corporation, organized and existing under the laws of the State of New York or of any State of the United States and authorized to do business in the State of New York and empowered by its charter to own and conduct pharmacies or drug stores, and, at the time of the passage of this act, still owns and conducts a registered pharmacy or pharmacies or a registered drug store or drug stores in the State of New York, may continue to own and conduct the same and may establish and own additional pharmacies or drug stores in accordance with the provisions of this article, but any such corporation which shall not continue to own at least one of the pharmacies or drug stores theretofore owned by it or ceases to be actively engaged in the practice of pharmacy, shall not be permitted thereafter to own a pharmacy or a drug store; and except that any person not a licensed pharmacist or a licensed druggist, who at the time of the passage of this act owns a registered pharmacy or a registered drug store in the State of New York, may continue to own and conduct the same in accordance with the provisions of this article.'

"This section provides that every pharmacy

should be owned by a licensed pharmacist, and every drug store should be owned by a licensed druggist, except that any person not a licensed pharmacist or a licensed druggist, who at the time of the passage of the statute in question, owned a registered pharmacy or registered drug store might continue to own and conduct the same in accordance with the provisions of law relating to such pharmacies and drug stores.

"This exception must be given a reasonable interpretation, as it was undoubtedly designed to protect those persons who prior to the statute had been engaged in the business of conducting a drug store or pharmacy. Protection was afforded to a person engaged in the business of keeping a drug store or pharmacy for the statute so reads. The privilege was given to a person who was engaged in the business of conducting the drug store and pharmacy and was not designed to protect a pharmacy or drug business irrespective of the person conducting it.

"It would be a very narrow and arbitrary construction of the exception to hold that if a particular drug store conducted by a person not a licensed pharmacist was destroyed by fire, or the property was condemned for the public use, or the landlord refused to renew a lease of the premises in which the store was conducted, that the privilege granted by the exception should thereupon cease and determine. All that was intended by the exception in question was, that the person who was conducting a drug store as an unlicensed pharmacist, in order to be permitted to go on with the business must continue to own and conduct a drug store not uninterrupted in the absolute sense. He continues the business uninterrupted within the meaning of the statute, even if he experiences temporary interruption, when he does not abandon the conduct of the business. Whether or not he abandons the business of conducting a drug store or pharmacy depends upon the circumstances and is a matter to be determined upon the facts of each case. If for example a building in which a drug store is being conducted by an unlicensed pharmacist is totally destroyed by fire, and it is impossible or impracticable for the druggist to continue business at that location, he would not be held to have abandoned the conduct of the drug business during a reasonable time required for him to adjust his affairs, obtain a new location and restock his store.

"The same is true in relation to the situa-

tion of the petitioner. If he did not intend to abandon the drug business and with due diligence obtained a new location, he is entitled to a certificate of registration.

"On this application the Attorney General has filed an answer in which certain of the material allegations of the petition are put in issue.

"A peremptory order of mandamus therefore cannot issue. Petitioner is, however, entitled to an alternative order of mandamus.

"The petitioner questions the constitutionality of the act in question. The practice of pharmacy is of such a nature as to permit its regulation by the legislature. In enacting Section 234 of the Public Health Law, I think the legislature has adopted a reasonable regulation well within its authority under the constitution.

"An alternative order of mandamus may be entered directing the New York State Board of Pharmacy immediately after the receipt thereof to transfer the registration certificate to Morris Tucker from 41 Manhattan Avenue, Brooklyn, to 307 Warren Street, Hudson, N. Y., or show cause why the command of such order should not be obeyed, and make return to the petition herein and to said order pursuant to the provision of the Civil Practice Act, within twenty days after its service at the office of the Clerk of Albany County."—Through *Pharmaceutical Era*.

#### PRICE AGREEMENT METHODS OF CANADIAN P. A. T. A. HELD IN CONFLICT WITH LAW, BUT ONLY PRESENTS AN OPINION.

In extended reports by the Minister of Labor, Registrar F. A. McGregor, with the collaboration of Dr. W. A. MacKintosh, professor of Economics at Queen's University, the various points of the price agreement of the P. A. T. A. methods are freely discussed. The report concludes with the following:

"The operation of the P. A. T. A. may be to the temporary benefit of the wholesale trade and of a large proportion of the retail druggists; to the manufacturers who are members of the association the advantages, if any, will be slight; to the non-concurring manufacturer the consequences may be disastrous. This inquiry, however, has been undertaken on behalf of the general public, regarding the public not as separate from the drug trade, but as inclusive of its interests; and having in mind that whatever is to the real and per-

manent advantage of any branch of trade will ultimately be in the public interest. The result of the inquiry has been to disclose a tripartite agreement representing virtually a whole trade, initiated largely by one party, for the benefit of two, enforced by all three; but, unfortunately, to the advantage of a fourth party, namely, the public.

"The public interest in such matters, however, is safeguarded by legislation which cannot be said to be unduly repressive of business; the combines investigation act simply declares that if any such agreement or combination operates or is likely to operate to the detriment of the public it should be restrained. It is submitted that the evidence presented in this report is sufficient to show that the Proprietary Articles Trade Association has operated and is likely to operate to the detriment of or against the interest of the public, and that, therefore, it is a "combine" within the meaning of the combines investigation act."

It is regretted that the opinion was at first quite generally accepted as final, whereas it is really the beginning of a test case whereby it is hoped very soon to establish that the P. A. T. A. is in its rights and help along the price maintenance cause in the U. S.

#### DRUGGISTS' NAMES TO BE ELIMINATED FROM PRESCRIPTIONS.

Section 1412 of Regulations 60, approved March 14, 1924, has been modified so as to provide that physicians, when writing prescriptions, Form 1403, shall not name therein the druggist or pharmacist who shall fill such prescription, and the space provided therefore in the said Form 1403 shall be left blank. All regulations inconsistent herewith have been rescinded.

T. D. 3887.

Section 1340 of Regulations 60 has been amended as follows:

"The retail druggist or pharmacist holding a permit shall forward with the transcript of the sales record, Form 1455 A, all filed and cancelled prescriptions, Form 1403, on which liquor was sold during the previous month. The prescriptions and transcript of record should be forwarded to the Administrator by registered mail, and receipt card, Post Office Form 3811, should be secured and retained by the druggist as a permanent record. The Administrator will cause the cancelled prescriptions to be mutilated by a punch."

*Approved:* July 2, 1926.