

of the decision the correspondent replied "that copies of the decision could be obtained by addressing the Court;" delay would have been avoided, if the correspondent had secured the information. All changes in laws, decisions, etc., should be communicated to the Secretary's office, and reports made at the annual meetings."

At this time Chairman Swain called for the paper on enforcement procedure in New York by George W. Mather. Mr. Mather presented a very instructive paper on the requirements for registration of stores and the enforcement procedure. Many questions were asked from the floor and discussion entered into by many. Mr. Mather will furnish the Secretary sets of forms in use for those who may want them.

Chairman Swain next called for the paper on "The Relation of the U. S. P. and N. F. to Pharmacy Law Enforcement," by Robert P. Fischelis of New Jersey. In presenting his subject, Mr. Fischelis requested that all persons presenting papers be permitted to pass upon same before they were released for publication. With this assurance, Mr. Fischelis talked at length on his subject and proposed resolutions to be presented by this Conference to the U. S. P. convention on the subject of not admitting proprietary medicines to the U. S. P. and that synonyms shall be listed in the monographs and index of the U. S. P. The paper follows:

### THE RELATIONSHIP OF THE U. S. P. AND N. F. TO PHARMACY LAW ENFORCEMENT.

BY ROBERT P. FISCHELIS.

Revision of the Pharmacopœia and National Formulary is imminent and it may therefore be timely to inquire whether certain improvements might not be made in the methods of stating standards and describing preparations which will assist pharmacy law enforcement. Of course, I have in mind particularly the enforcement of the pharmacy law in New Jersey, but what will be helpful in our state will also be of value in other states. I might say, briefly, that our law provides that drugs, medicines and poisons shall be sold only by registered pharmacists, assistant pharmacists or persons working under the immediate supervision of a registered pharmacist. Non-poisonous patent and proprietary medicines and simple non-poisonous domestic remedies sold by retail dealers in rural districts are exempted from this provision. Retail dealers are not defined. Rural districts are not defined and simple domestic remedies are not defined in the New Jersey law. Our law contains no schedule of drugs or medicines that may be sold by persons not registered pharmacists. Our Board of Pharmacy is empowered to make rules and regulations for enforcement of the law. Under this regulating power we have defined a rural district as an unincorporated place of less than 1000 inhabitants, situated at least two miles from a pharmacy supervised by a registered pharmacist. That definition has never been challenged in a court of law. We have defined simple domestic remedies without naming the remedies. Anyone engaged in this kind of work knows how difficult it is to prepare a list which will satisfy not only the retail dealers in rural districts who are selling medicines as an accommodation, but also the manufacturers who want to sell to dealers in rural districts and to any other kind of retail dealer anywhere. We have, therefore, refrained from making such a list public.

The procedure we follow is this: When a rural district store writes in and asks what sort of domestic remedy may be sold, we inform the dealer that the intent of the pharmacy law in this respect is to give people in the rural districts such emergency service as they might need, and not to make a pharmacy out of a general store. If the dealer will send us a list of the remedies for which he has a demand, we will check that list and advise him which items may be sold without the supervision of a registered pharmacist, and which may not. That has worked out pretty well with us and it has, to our mind, given people in the rural districts the service they need, and has saved the publication of a list which greedy manufacturers would take to the various stores and show the dealer as "a list of the products the Board of Pharmacy permits general merchants to sell."

Some general merchants, when called to account by our Board for selling drugs and medicines, have secured the backing of manufacturers in taking the matter to the courts. We have been consistently upheld in our work by the Supreme Court of the State. So far, the decisions have involved Tincture of Iodine, Camphorated Oil and Essence of Peppermint.

The Iodine case was easy because iodine is a poison. The question arose whether Camphorated Oil is a medicine or whether it is a domestic remedy, or whether it is a proprietary

preparation. In the district court where the case was tried, the testimony on our side was to the effect that it was a medicine and not a simple remedy because of the presence of camphor to the extent of 20%, which makes the preparation poisonous in sufficient dose, and therefore does not permit of its being classified as a "simple non-poisonous domestic remedy." The District Court upheld our view and the Supreme Court sustained the District Court.

Another case involved the sale of Essence of Peppermint in a delicatessen store. We maintained that this was a violation of the law as it constituted the sale of a medicine by an unregistered person. Again the Supreme Court sustained our contention.

One thing that helped in those decisions was the fact that in our testimony we could point to the listing of Essence of Peppermint and Camphorated Oil in the U. S. P. We said on the stand that the U. S. P. and the National Formulary do not include proprietary remedies. We were under the impression that the U. S. P. Convention had definitely laid down the policy that proprietaries shall not be admitted to the U. S. P. I have been told since then that the Convention is not entirely on record in the matter, but that it is a sort of unwritten law or general understanding on the part of the Revision Committee that proprietaries are not admitted, or at least, that the formula of every product admitted must be open and not secret.

I submit that the Pharmacopœia can be more helpful in law enforcement if the policy regarding proprietary preparations is definitely announced. One method adopted by manufacturers to make a proprietary preparation out of a well-known U. S. P. or N. F. formula is to change its name or to use a common synonym rather than the official title, hoping thus to escape the sales restrictions. I should like to see this Conference of Enforcement Officials go on record as asking that simple remedies, even though they may not be prescribed, be included in the Pharmacopœia as far as possible, taking into consideration, of course, the public demand for such products. I am particularly interested in preventing the deletion of popular remedies now included in the U. S. P. rather than in having many products added. The tendency has been to delete these preparations, and once they are removed from the standard works, there is sure to be a question, at least under our law, whether they are proprietaries or not. If they are listed in one of the two books, we have authority for saying they are medicines and as such, their sale is restricted to pharmacists.

In this connection it is also very important that the monograph of every official drug, chemical and preparation shall include all the known synonyms. Very often manufacturers, wholesalers and general merchants will offer an official product for sale under a synonym that is generally recognized in the trade, but does not happen to be mentioned as an official synonym. The latter fact is used as an argument in favor of the sale of such products without the supervision of a registered pharmacist.

It seems to me that "monoacetic acid ester of salicylic acid" should be named as a synonym of acetyl salicylic acid; "citrate of magnesia" should be mentioned as a synonym of solution citrate of magnesia; "Peroxide" and "Peroxide of Hydrogen" should be mentioned as synonyms of Solution of Hydrogen Peroxide; and so on. If these synonyms are made official, the tricky dealer cannot evade the Pharmacy and Food and Drug laws by using the common names of official articles to promote sales of inferior products.

Another point that most of you have had experience with, is the question of limiting the sale of drugs and medicines by general merchants to preparations listed in the U. S. P. or N. F. These works list a number of items used in preparing preparations which are not exactly drugs or medicines or, if used as drugs and medicines, are also used for culinary purposes. It occurred to us in New Jersey that this situation could be aided materially if the revisers of the Pharmacopœia would separate the items which are used as drugs and medicines from those which are used simply as adjuvants or for flavoring purposes. It is not a simple thing to do, of course, but it seems to us that it can be done. If all drug items were listed in Part I and the sale of such items could be restricted to pharmacists, and such items as sugar, salt, spices, etc., be listed in Part II with the statement that the standards for these items applies only to their use as drugs and that their sale is not restricted to pharmacists except when used as drugs or medicines, much of the unfair propaganda by general merchants on this point would fall flat. If you ask us to submit right here a definite plan of dividing these items in accordance with our suggestion and show you how it can be done, we shall have to say we have no such plan

ready, but we believe something of the kind can be done and ought to be done in the interests of those charged with the enforcement of the laws.

To summarize these, three suggestions are offered: 1. That we oppose any further deletion of the so-called simple remedies which are purchased without physicians' prescriptions, but very often on the doctor's order. 2. That we urge recognition of as many synonyms as possible in the official books. 3. That we divide the items in the Pharmacopœia into sections based on their therapeutic activity so as to separate active drugs from mere adjuvants, technical preparations or flavors.

Discussion was entered into by Messrs. Walton and Swain, and the Chairman instructed Mr. Fischelis to prepare suitable resolutions and present them to the Conference at the next session.

Chairman Swain appointed a nominating committee consisting of L. L. Walton, Arthur Lee Phelps and Robert P. Fischelis.

At 12:00 o'clock noon, upon motion duly seconded, the Conference adjourned.

ROBERT L. SWAIN, *Chairman*

M. N. FORD, *Secretary*.

The Second Session of the Conference of Pharmaceutical Law Enforcement Officials was convened at 2:00 P.M. by Chairman Swain.

J. W. Slocum of Iowa presented a paper on "The Restrictive Features of the Iowa Pharmacy Laws." The paper made reference to the recent decision of the State Supreme Court in which the Board of Pharmacy was sustained in the decision that Aspirin may be sold only by registered pharmacists. The paper was discussed from the floor with a great deal of interest.

#### THE RESTRICTIVE FEATURES OF THE IOWA PHARMACY LAW.

BY J. W. SLOCUM.\*

The power to regulate the practice of pharmacy is vested in the State Legislature, and is in the same category as the power to regulate the practice of Medicine, Dentistry, Veterinary Science and other professions. This is commonly known as the police power of the state.

The term "police power" is not capable of exact definition, but it is exercised and defended on the ground of public welfare. It is intended to mean the power and function of government under a system of rules and administrative organization. Its purpose and aim, directly is to secure and promote public welfare, and it does so by restraint and compulsion.

It seeks to preserve order and prevent offenses against the state. As one of our able Iowa jurists has said, "to establish for the intercourse of citizens with citizens, those rules of good manners which are calculated to prevent conflict of rights, and to insure to each the uninterrupted enjoyment of his own, so far as it is reasonably consistent with the enjoyment of the rights of others."

When the legislature of a state exercises this power, there are certain limitations which are defined by the courts, and indicated by the fundamental law, the constitution of the state, and the constitution of the United States.

The question of equality is of paramount importance, so that in its operation it will affect all citizens alike in the class in which it operates. Some states differ from others in the interpretation of the statutes within their respective jurisdictions. When exercising police power the restrictions and regulations enacted must be proper and reasonable, and it is always a question for the courts of last resort to decide.

The word "law" as generally defined refers to the written law, but the great body of law which controls human conduct is not written at all. From time immemorial there have been customs which by common consent have come to be regarded as a part of the law, and which is known as the common law. An old maxim states, "One must use his own property so as not to injure that of his neighbor." This is not written law but, because of generally recognized difference between right and wrong, it is a part of the unwritten law of the land. It is not very often that a state legislature abrogates any principle of common law, if it is in harmony with the spirit of our institutions.

The common law is elastic and is adaptable to new conditions. A judge of our Supreme Court has said "That the common law has grown with civilization and kept pace with the march

\* Chairman Iowa Board of Pharmacy.