

THE DEPARTMENT OF THE NATIONAL ASSOCIATION OF BOARDS OF PHARMACY

President, John A. J. Funk, Galveston, Ind. *J. W. Gayle*, *Treasurer*, Frankfort, Ky.
Chairman of Executive Committee, John Culley, Ogden, Utah. *Secretary*, H. C. Christensen,
130 N. Wells St., Chicago, Ill.

ACTIVE MEMBER STATES.

Alabama	Indiana	Montana	Rhode Island
Alaska	Iowa	Nebraska	South Carolina
Arizona	Kansas	Nevada	South Dakota
Arkansas	Kentucky	New Hampshire	Tennessee
Colorado	Louisiana	New Jersey	Texas
Connecticut	Maine	New Mexico	Utah
Delaware	Maryland	North Carolina	Vermont
D. of Columbia	Massachusetts	North Dakota	Virginia
Florida	Michigan	Ohio	Washington
Georgia	Minnesota	Oklahoma	West Virginia
Idaho	Mississippi	Oregon	Wisconsin
Illinois	Missouri	Pennsylvania	Wyoming

SUPREME COURT UPHOLDS NORTH DAKOTA PHARMACEUTICAL ASSOCIATION.

The right of a state pharmaceutical association to virtually make appointments on the board of pharmacy through its recommendatory power has been upheld by the Supreme Court of North Dakota, in the decision recently given in the case of *L. Rosoff vs. the Pharmacy Board*.

In August 1926, the North Dakota Pharmaceutical Association selected the name of P. H. Costello from a list of three submitted by a committee, as its recommendation for appointment to succeed W. P. Porterfield, whose term was to expire May 1927. The Governor, ignoring the recommendation, appointed L. Rosoff, whose name did not even appear on the recommendation list submitted by the committee. He was refused recognition by the Board and W. P. Porterfield continued to serve until his successor could legally qualify. The lower courts upheld the Governor's right to appoint outside the association's recommendation and the case was appealed.

The fact that the Supreme Court reversed the decision and upheld the pharmacy board and the state association is a tremendous victory. Other states with similar laws that have sometimes doubted the legality of this provision will find their positions strengthened by this decision.

The Fargo Forum in commenting editorially on the decisions says:

"In making its decision, the Supreme Court undoubtedly took into consideration the intent of the Legislature in passing the law creating a pharmacy board. In this case, as in similar laws, it is much easier to determine legislative intent than it is in many others. *Because pharmacy is a highly specialized profession, calling for exacting training and examination before being permitted to practice*, the Legislature decided that the North Dakota Pharmaceutical Association, looking to the best interests of the drug business, was in better position to recommend competent board members than the Governor to select them. It did the same with other professional examining boards. (Italics ours.)

"Inasmuch as an executive had ignored this provision of the law and had ignored the state association's recommendation, it was well to test the act. The decision ends all doubt as to the Governor's right to make such appointments except on the required recommendations."

The board of pharmacy and the state association are to be congratulated on their courage in making an issue of the point and so ably defending their rights in this test case.

AN APOLOGY.

In the article "Iowa Supreme Court Upholds Aspirin Decision," which appeared in this Department in the January JOURNAL, the statement was made that this was the first state Supreme Court decision upholding an attorney general's opinion limiting the sale of aspirin to pharmacists.

This was an inadvertent error, as the Minnesota Supreme Court rendered a similar decision in July 1927. In fact, full details were supplied to the N. A. B. P. central office at that time and an article appeared in the August 1927 JOURNAL, in which the Attorney General's opinion and the Minnesota Supreme Court decision upholding the same were published in full.

Apologies are made to the Minnesota Board of Pharmacy and especially to Secretary J. W. Dargavel, whose painstaking work was of great value in bringing about the first favorable Supreme Court aspirin decision. Naturally, the Minnesota decision was of considerable help to Iowa and Secretary Dargavel also furnished considerable data to the Iowa Board for use in the case. With two states confirming this decision, there should be no difficulty in enforcing similar rulings in other states.

DISTRICT SIX MEETING IN SAN ANTONIO.

A joint meeting of the board and faculty members of District No. 6 (Arkansas, Kansas, Missouri, Oklahoma and Texas) was held at the Plaza Hotel, San Antonio, Texas, on January 24, 1930. Chairman C. B. Allison of the Texas Board presided as the N. A. B. P. vice-president and chairman of the district. Mac Childs of the Kansas Board served as recording secretary.

The meeting was unusually well attended, the Kansas, Oklahoma and Texas boards having 100% representation, Arkansas also was represented. Regret was expressed over the fact that neither the Missouri board nor colleges had sent delegates. Dean D. B. R. Johnson of the University of Oklahoma and Dean W. F. Gidley of the University of Texas represented the American Association of Colleges of Pharmacy. Secretary Christensen of the N. A. B. P. extended greetings.

An interesting address "Eighteen Years a Member of the Texas Board of Pharmacy," by John A. Weeks, was greeted with much applause.

Following the usual custom for district meetings, each board presented a set of examination questions on an assigned subject and these were criticized and commented upon from the floor. Among the several topics discussed were the recognition of colleges of pharmacy; the reciprocal recognition of pharmacists registered by territorial or district boards or at the time of creation of state boards; and the question of extending reciprocity to an applicant who has failed in examination before the board to which he is applying.

The following resolutions were presented by the Resolutions Committee, consisting of Booker Latimer of Arkansas, *Chairman*, Dean D. B. R. Johnson, and Percy S. Walker of Kansas; and were adopted:

Be It Resolved: I. That the chairman of the district be authorized to appoint a committee to work out a plan for a clearing house of state board examination questions for reviewing these questions and making criticisms and suggestions. The purpose of this proposed plan is to enable the board members of District No. 6 to prepare more uniform and practical examinations. This data is to be compiled in multigraphed form each year, and a copy distributed to each board member in the district and to the chairman of the N. A. B. P. Advisory Examination Committee.

II. That we recommend that a maximum dose of potent drugs be included in the 11th revision of the U. S. Pharmacopœia beyond which the physician shall not go without indicating, by writing the amounts in both metric and apothecary system, that he realizes and accepts the responsibility for the larger dose.

III. That a publicity committee be appointed at the 1930 national conventions, consisting of one member of the N. A. B. P. and one member of the American Association of Colleges of Pharmacy from each of the nine districts, as divided by the N. A. B. P., the committee to elect its own chairman, and present plans and means of putting them into effect at the 1931 national conventions for adoption.

IV. That the state boards of District No. 6 make it a point to inform their Senators and Representatives of the fairness of the Pharmacy Corps bill and urge support of this proposed legislation.

V. That the members of the National Association of Boards of Pharmacy and the American Association of Colleges of Pharmacy of District No. 6 here present extend to the San Antonio Retail Druggists Association their heartfelt thanks for the hospitality shown, including the wonderful banquet, all of which was an inspiration and was keenly enjoyed.

Other districts are planning meetings, some of which will have been held before this issue is published. Among these are a meeting of District No. 2 at Washington in March, District No. 4 in Minneapolis in February and a meeting of District No. 5 some time in March.

Word has come just before going to press that District No. 1 held a very successful meeting in Boston, Mass., on January 28th, with an attendance of twenty-five representatives from boards and colleges. This is the first meeting held by that district in ten years. Maine was represented by two delegates, Vermont by five, New Hampshire by one, Massachusetts by four, Rhode Island by five and Connecticut by four. All three colleges in the district were represented.

STATE BOARD NEWS.

Kentucky.—At the meeting of the Kentucky Board of Pharmacy held in Covington on January 14th, sixteen applicants for registered pharmacist were examined, and six passed; eleven for the assistant were also examined, and eight passed.

The following qualified for registration by reciprocity: Will D. Russell, from Georgia; Roy W. Willis and Maurice Charkine, from Ohio; Harry R. Bobst, from New Jersey; Barton N. Funderberg, from Mississippi; and Raymond Morris, from Michigan.

The next meeting of the board will be held in Danville on April 8th.

At the meeting just held, Gelon R. McGinnis, of Louisville, qualified as the newly appointed member of the Board, succeeding William Votteler, of Louisville, whose term expired recently.

Minnesota.—Six pharmacists have been granted registration as a result of the January 16th meeting.

Miss Marie A. Piesinger of Northfield, Minn., was elected president of the board of pharmacy for the ensuing year, and John W. Dargavel of Minneapolis was reelected secretary. Miss

Piesinger holds the honor of being the second woman in the country to hold the presidency of a board of pharmacy. Miss Kittie W. Harbord of Salem was president of the Oregon Board way back in 1911.

New Jersey.—The following resolutions were adopted at the January meeting of the New Jersey Board:

Resolved that it is the sense of the Board of Pharmacy of the State of New Jersey that approval of the four-year course in Pharmacy shall be confined to such courses and institutions as will recognize the need for fundamental training in Physics, Chemistry and Biology, on which a proper technical course in Pharmacy may be built, and

Resolved further that it is the sense of this Board that a cultural background in the form of courses in English, some phases of history, economics and one or two modern languages, is a necessary part of a proper course in Pharmacy leading to a baccalaureate degree. It is also the opinion of this board that a four-year course in Pharmacy leading to a bachelor's degree, and embodying the principles set forth in the foregoing resolutions, cannot be taught on a three or four day per week schedule, but will require distribution over a full week, so as to avoid crowding of class schedules and provide time for outside study and reading on the part of the student.

Resolved that in crediting practical experience the time spent by a regularly enrolled student in a course in Pharmacy approved by this Board shall be computed on the basis of eight months credit for each college term if the net period of instruction amounts to at least thirty-two weeks per term and if the instruction given is spread over more than three days per week, and

Resolved further that in connection with credit for college work allowed on the foregoing basis, no credit shall be given for work in a pharmacy which is concurrent with attendance at college.

The maximum practical experience allowance which can be credited for attendance at a college of pharmacy under the Pharmacy Act is twenty-four months toward the "Registered Pharmacist" requirement and twelve months toward the "Assistant Pharmacist" requirement.

Pennsylvania.—Due apology is made here for an error in the January JOURNAL, in which the statement was made that "eight out of a class of 146 have been registered as pharmacists as a result of the October examination." This should have read "eighty out of a class of 146" and we are sorry the error was not caught in reading proof.

Wisconsin.—As a result of the quarterly examination held in January, 44 out of a class of 137 candidates were successful in receiving licenses, 31 being granted the registered pharmacist certificate and 13 the assistant license.

The next meeting will be held in Madison on April 21, 1930.

A DRUGGISTS' LEGION POST HAS OPPORTUNITIES FOR COÖPERATIVE WORK.

Chicago will have an American Druggists' Legion Post, which organization will honor President Walter A. Harris, of the Chicago Retail Druggists' Association on February 24th. The enthusiasm of A. Gorod in the post is expressed by his invitation to former service men who are druggists to join him and others at luncheon for the discussion of activities; among many others interested in the organization are O. U. Sisson, Harry Moyer, Charles L. Reynolds, Ben Friedlander. Dr. Farrell, Chicago Medical Post Commander for the past two years, has suggested occasional meetings of pharmacists with medical men of the service; the post of which Dr. Farrell is the head has about 400 members.

Every encouragement should be given the movement, not only because of the opportuni-

ties for fraternal relations, but for service. Discussions among pharmacists, and pharmacists and doctors will lead to betterment in the Government Service in which these professions are concerned, and secure deserved recognition, therefore, it is to be hoped that the idea will take hold in all sections of the country, that posts will be established in the larger cities, and the important thought kept in mind that the effectiveness of the work depends upon coördinated coöperation.

The Chicago proposal brings to mind that the Service Roll of Illinois pharmacists lists 700 names. (See JOUR. A. PH. A., 8 (1919), 1081.) We have in mind, among other opportunities, the establishment of a Pharmacy Corps, provided for in S. B. 3211 and H. B. 8473.

NARCOTIC LEGISLATION.

COMMENTS ON TENTATIVE DRAFT OF THE NEW PORTER NARCOTIC BILL.

At the recent meeting of the National Drug Trade Conference two proposed measures dealing with narcotics were considered.

One was a proposed Uniform State Narcotic Act intended to bring about greater uniformity in the legislation of the several states and to make it conform more closely with the Federal law. The committee provided by the Conference to consider this proposal has not submitted its report and apparently this legislation will not be rushed.

The other was a proposed bill by Representative Stephen B. Porter providing for a separate Bureau of Narcotics in the Treasury Department, a Commissioner of Narcotics and the licensing of all those connected with the legal use of narcotics and making other changes in the administration of the Harrison Act. A committee provided for by the Conference conferred with Representative Porter and at his request submitted certain observations and suggestions to him, as follows:

(1) From the title of the bill and from paragraph A of Section 3 it is evident that the bill is predicated upon the treaty-making power of Congress. Under the present Harrison Act, based upon the authority of Congress to lay and collect taxes, the administration of the law can be kept within reasonable bounds so far as the constitutional rights of physician and pharmacist are concerned. A law based upon the treaty-making power would give the Federal Government a wider scope of action and its executive agents would be released from certain constitutional restraints to which they are subject in the administration of the Harrison Act.

(2) The control of the improper use of habit-forming drugs in the United States is far in advance of the degree of control exercised by any other government party to The Hague Treaty of January 23, 1912. Therefore, there can be no special obligation under The Hague Treaty to take any additional steps toward the control of such drugs unless it be assumed that the U. S. Government is morally responsible for the abuse of habit-forming drugs throughout the civilized world.

(3) The bill is objectionable in that it is intended to create a new federal bureau with a commissioner, assistant and deputy commissioners and other agents, involving a large addition to the number of federal employees and a consequent multiplication of expenditures. The entire personnel of the present narcotic service numbers something like 375 individuals, which thus far has been found ample to discharge the work entrusted to that service. Under the proposed new bureau the personnel would be at least doubled or trebled.

It is the evident purpose of the present Administration to relieve the Prohibition Bureau of a large portion of the activities it has hitherto exercised, in which case the existing Prohibition Bureau will have still more ample time to devote to the administration of the narcotic law.

(4) The proposition to abolish the existing Federal Narcotic Control Board and to substitute three medical officers designated by the Surgeon-General of the Public Health Service does not seem to be justified. The present Board has functioned in a highly satisfactory manner and there is no substantial evidence to sup-

port any claim that narcotics have been admitted through the Custom House in excess of the amounts properly necessary for legitimate medical use.

The new method of control proposed is also defective in that it does not provide for a representative of pharmaceutical interests, since many of the problems relating to the importation, manufacturing, the keeping of proper reserves and the distribution of narcotic drugs to the wholesale and retail drug trade, to hospitals and to the medical profession involve technical questions with which no physician can be familiar. Only through the presence of a representative of pharmacy upon such board of control can such questions be given the intelligent and technical consideration which they deserve.

(5) Under the existing Harrison Act the means of control through the registration of manufacturers, producers, dealers and physicians, and the use of duplicate order blanks permits every ounce of a habit-forming drug to be traced from its entry through the Custom House to its final consumption for medical purposes, and there is no substantial evidence tending to show that there is or has been any material leakage of habit-forming drugs from the channels of legitimate consumption provided by the law. The effect of the Porter Bill, therefore, should it become a law, would be simply to provide more cumbersome and more expensive machinery for supervision of that portion of the drug traffic which is already properly controlled, and to place additional burdens upon physicians and pharmacists.

(6) The bill is defective in that it does not provide any means for the more effective control of habit-forming drugs which are introduced by smuggling. All the available evidence indicates that practically all of the habit-forming drugs distributed for illegitimate purposes are obtained through smugglers, and that no material portion of them is derived from the quantity which comes through custom houses and which is distributed through pharmacists and physicians.

(7) The present Federal Narcotic Act is one of the most efficiently enforced and one of the best observed laws upon the federal statute books. The official records at Washington disclose the fact that less than one per cent of the offenses against the Narcotic Act are committed by physicians and pharmacists, and of this small number of offenses the majority are of purely technical character, such as errors in the keeping of records, the dispensing of narcotics upon a physician's prescription when, under the Regulations, an Order Blank should have been used, etc.

(8) The last paragraph of Section 3 is highly objectionable in that its apparent intention is to deprive citizens from the opportunity of having a court review of the decision of the Commission either with respect to the granting of licenses or their revocation. Ample experience with government officials in the enforcement of the Prohibition Act and other federal laws has proved the absolute necessity of the possibility of judicial review as a restraining influence upon arbitrary administrative action. If the decision of an administrator is within the scope of his authority as defined by law the possibility of judicial review cannot interfere with the effectiveness of his execution of the law. On the other hand, if his ruling is not within the law there is no means whereby the injured can obtain redress except through the medium of judicial review. This attempt to do away with the right of a court review of executive action should, therefore, be resisted to the utmost.

(9) It is questionable whether the licenses proposed to be issued under paragraph B of Section 3 would not constitute an invasion of the rights reserved to the states. The section is also defective in that the language "the applicant or licensee is not otherwise a fit person to possess a license," is highly indefinite and would seem to make the mere will of the Commissioner of Narcotics the sole test as to whether a license should be granted or withheld. The language of the bill is in other respects indefinite and lacking in that certainty of meaning which should obtain in a statute, the effect of which may be to deprive citizens of their property or liberty.

Mr. Porter introduced his measure in Congress on January 23, 1930, in two bills, H. R. 9053 and H. R. 9054 (see copy of the Porter Bills under "Legal and Legislative" in this issue of the JOURNAL), the former being referred to the Committee on Ways and Means and the latter to the Committee on Foreign Affairs. Two important modifications were made in the proposed legislation, prior to its introduction, in response to the suggestions of the Conference Committee. The language "the applicant or licensee is not otherwise a fit person to possess a license" has been eliminated as a basis for the refusal to issue a license or for the suspension or revocation of a license, the grounds now being "(1) the applicant or licensee is a narcotic drug addict, or (2) the applicant or licensee has been convicted of violating the law of any state or of the United States relating to narcotic drugs." Provision is made for appeal to the U. S. Courts by any one who is denied a license or whose license is suspended or revoked by the Commissioner of Narcotics after a hearing before the Commissioner or any officer or employee of the Bureau designated by him.

Since all branches of Pharmacy are giving satisfactory coöperation, and since the results so far as the legitimate use of narcotics is concerned are satisfactory, it does seem reasonable to expect that any additional legislation deemed necessary shall be limited to curbing illicit use, and that further burdens should not be imposed upon those who have been given the duty of preparing, distributing and dispensing these very necessary substances.

PHARMACIST CANNOT ANALYZE LIQUOR SAMPLES.

A recent ruling of the Enforcement Bureau of the Treasury Department informs that "the possession of any liquor other than that received by the pharmacists pursuant to properly approved permit to purchase would be possessed illegally. It would appear that the proper place for analysis of intoxicating liquors for the purpose of determining the presence of extraneous matter would be either the city chemist, the chemist of the Health Department, or the State Chemist of the locality in which the physician is practicing." From the foregoing it seems that the Bureau considers possession of intoxicating liquors for the purpose of analysis by others than officials illegal.

There seems to be no reason why any pharmacist or chemist should not be permitted to analyze medicinal liquor (legal).

INDIANA LAW TAXING CHAIN STORES IS DECLARED TO BE UNCONSTITUTIONAL.

The Indiana chain store tax law is unconstitutional, the District Court for the Southern District of Indiana has held. (See JOUR. A. PH. A., 18 (1929), 92.) The law makes an unreasonable and arbitrary classification, the court ruled, pointing out that the plaintiff in the case operates 225 grocery stores in the city of Indianapolis and would pay a total tax of \$5443, whereas other firms in the State with but one store would pay only \$3.00, although having a much larger investment and income than the plaintiff.

The law cannot be sustained under the police power of the State, the court held, because it does not relate to the public health, the public welfare, the public morals or the public safety.
