

CONFERENCE OF PHARMACEUTICAL LAW ENFORCEMENT OFFICIALS

ABSTRACT OF THE MINUTES OF THE MEETING HELD IN TORONTO, CANADA, AUGUST 25 AND 26, 1932.

The fourth annual meeting of the Conference of Pharmaceutical Law Enforcement Officials was convened by Chairman R. L. Swain, at 9:30 A.M., August 25th. Those present were: Thomas Marns, Great Britain; Col. C. H. L. Sharman and Herbert Skinner, Ottawa, Canada; A. L. Tennyson and H. T. Nugent, Washington, D. C.; Messrs. Walton, Cook, Munch and Sturgeon of Pennsylvania; Winne and Rudd, Virginia; Judisch and Mead, Iowa; Wilson, Georgia; Gayle and Wilhelmi, Kentucky; Edwards, Illinois; Lehman, Mather, Shaeffer, New York; Kradwell and Ruenzel, Wisconsin; Costello, North Dakota; King, Kansas; Parker, Arkansas; Pierce, New Hampshire; Ray, Texas; Fischelis, New Jersey; Swain, Maryland, and Ford, Ohio.

In calling the meeting to order, Chairman Swain introduced the Canadian Officials and then delivered his chairman's address. Upon motion, duly seconded, his address was received for publication.

THE PRINCIPLES OF LAW ENFORCEMENT.

BY ROBERT L. SWAIN, *Chairman.*

The Conference of Pharmaceutical Law Enforcement Officials was established four years ago in an effort to meet a well-recognized need in our complex modern life. The Conference really owes its existence to the AMERICAN PHARMACEUTICAL ASSOCIATION. In keeping with the sanely progressive spirit which has characterized and distinguished the AMERICAN PHARMACEUTICAL ASSOCIATION throughout the eighty years of its existence, there grew up in it the conception that the stability of the profession and the best interests of the public demanded a more adequate observance of the laws under which the public seeks to be provided with a responsible and efficient personal professional service. This view was held by many thoughtful observers who sought to stimulate pharmacists to a realization of the relationship between pharmacy and public welfare, with the view of encouraging a sense of personal pride and personal responsibility in all phases of pharmaceutical work. It was felt that a more generally accepted legal responsibility on the part of pharmacy would engender a more responsive personal responsibility. From this sense of personal responsibility, it was confidently believed, would come a professional service thoroughly alive to the significance of drugs and medicines to community welfare. In other words, it was felt that law observance, based upon a real appreciation of intrinsic values, and brought about through an acceptance of personal responsibility, would effectuate the purpose of the pharmacy laws, and stimulate the consciousness and morale of pharmacy from which would follow material and professional gains. The Conference of Pharmaceutical Law Enforcement Officials was thus designed to enable pharmacy to express itself more in keeping with its social importance.

In fulfilment of its purpose, the Conference necessarily becomes faced with many problems. Law enforcement, while an exceedingly practical thing, is one of great difficulty. It must take into consideration many elementary phases of human nature. Not only must it oppose the dishonest and deceptive efforts of the few, but it must be carried on in conformity with the views of the many. While it must be forceful and effective, its force and effectiveness must not contravene conventional social standards. While it must ever be devoted to its objective, its objective may not be too obscure or too far removed from presently accepted views of what society needs. In other words, law enforcement is largely a relative term, the definite and precise results of which are to be determined through consideration of many social, political and economic principles.

A careful analysis of these functions will show that the pharmacy law enforcement official must be, to no small degree, an expert in the laws which he seeks to enforce. Whether he styles himself such an expert does not matter. Practical experience has shown that the duly authorized officers of the law will rely upon the judgment, and frequently the interpretation, of the person actually engaged in applying these laws. This comes from a recognition that the pharmacy laws are more or less technical, and include many matters and transactions with which public authority deals infrequently. In considering such laws, it is the natural and logical thing to rely upon the views of those who must be presumed to be well versed in them. When seen from such a point of

view, the enforcement official becomes a many sided character, and one faced with a profoundly insistent responsibility. It is because of the unique position in which the enforcement official finds himself that he must be familiar with many things not always associated with him in the public mind. To work out a satisfactory and workable technique, he must first of all adopt a sound policy, and this, it is obvious, calls for the exercise of a well-considered judgment as to the objective of his efforts and knowledge of many factors which make the objective attainable. My own view is that a general conception of what law is, how it has been developed, legislative procedure, how the law is interpreted, the processes and courts available are essential to the proper discharge of the law-enforcing function. With this foundation firmly laid, the details of enforcement technique and the machinery required are worked out with comparative ease.

As the work of the Conference of Pharmaceutical Law Enforcement Officials has to do primarily with the application of laws, it follows that the work must be based upon a sound understanding of what law is, and that the object of the work is a realization of the purpose which the law is designed to serve. Admitting again that law enforcement is a rather practical thing, nevertheless the practical methods lose nothing of value by having been developed from a knowledge of the principles from which the law springs. In fact, the converse seems to be especially true. If the methods by which the law is sought to be applied have been worked out with no regard to fundamental legal concepts, the result must be failure. To be practical one must be familiar with the theoretical background from which practical results become possible.

In pursuance of this line of thought, it may be well, first of all, to define law and to show its relation to society. Quoting from a well-known treatise, "Law, in its widest sense, is a rule of action, prescribed by a superior and which the inferior is bound to obey. Law, in its technical sense, is a rule of civil conduct, prescribed by competent political authority, commanding certain things as necessary to, and forbidding other certain things as inconsistent with, the peace and order of society."

If we are to be content with definitions, it may well be that this statement is as concise, and perhaps as accurate, as any that could be framed. However, if legal and legislative functions are to be understood, if principles are to become vital and living forces, it is necessary to delve below mere words to the cold deep springs of human development. Perhaps Mr. Justice Holmes has done it as well as it can be done when he says that "the life of the law has not been logic; it has been experience." Students of the law early become impressed with its profound meaning. They note that superficial manifestations have effected it not at all. True, excrescences have from time to time engrafted themselves only to slough off because of their inherent lack of nutritive substance. The elements from which legal principles have become elaborated, the precepts which have crystallized into rules of human conduct, the basic philosophy of jurisprudence, all have come from the deepest currents of man's experience. If it were possible to visualize the tremendous scope and confines of the law, if it could be merged into some swift moving panorama, one might be able to see, and perhaps to grasp, the deep significance of social forces.

Law is no more, and reflection will show that it can be no more, than an expression of the well thought out and mature conclusions of society. It is a crystallization, into molds and processes of varying degrees of definiteness, of the forces which society has evolved to meet its needs. From the very beginning of things, society has been compelled to fight first for its existence, and later for its supremacy. Law is thus society's means of maintaining stability on the one hand, and providing for change through orderly experimentation with social forces on the other. The law has indeed been born of experience; it is the supreme contribution of one age to another, the final value of which is expressed in the terms of present-day civilization.

Society has always been acutely interested in its own welfare and development. As conditions developed to the importance of affecting rules of conduct, these rules of conduct found a place in the law. As the rules of conduct became inconsistent with a changing social order, the reasons for the rules having changed the rules changed with them. In other words, the law which society has imposed upon itself carries with it always the inherent excellences of ancient days together with newer principles which are emerging to meet the present. The "ever-lengthening past" makes an unending contribution to the present, and contains within itself the most assuring prophecy of the future. Society, rich in experience and with a wisdom grounded deep in fundamentals, rises to meet effectively the problems which come with the ever-changing level in social and political advance.

It is in these thoughts that the legal basis for that wide body of public health laws is to be found. While these laws may be explained as the proper application of the police power of the state, they become of greater significance when seen as the logical impact of social forces. As civilization became more complex and involved, as the safety of the state was seen in terms of individual safety, as scientific development assumed a significance which it had not previously enjoyed, laws of peculiar import were enacted for the protection and security of the public. Laws regulating the practice of medicine and pharmacy have been on the statute books so long that they are accepted with little thought to the basis upon which they rest. Back of them and underlying them always is the purpose to serve the public welfare. This idea is well expressed by the Supreme Court of Minnesota when it said that the manifest purpose of the pharmacy law "was to protect the public against the mistakes and ignorance of incompetent and unskilled persons in the preparation and sale of drugs and medicines." The same principle, modified of course to meet the other situations, underlies the medical practice acts, pure food and drugs act, poison laws, narcotic laws, and other public health rules and regulations. All of this body of rules is designed to serve a public purpose, and that is to protect the public against the mistakes, cupidity and ignorance of the incompetent and unskilled.

Law enforcement thus becomes an activity in which the public is very definitely concerned. Law enforcement is an attempt, carried on in the name of the public, to surround the public with that protection which the public has decreed it shall have. There is nothing mysterious, ambiguous, or uncertain about it. It is a most practical thing, and, when seen from its supporting background, it becomes an activity in which the student might well desire to exercise his talents.

Having attempted to sketch the source of law in its wider sense, it follows that the enforcement of law demands familiarity with the legislative machinery which has been set up. The enforcement officer must know local processes and conditions as they influence legislation. Not only should he be conversant with legislative processes, but he should diligently study public thought by which these processes are put in motion. To this familiarity with local legislative forces should be joined a general knowledge of pharmaceutical legislation throughout the country. A decided trend in one state is likely to manifest itself in all states. A study of the results of legislation as they have been worked out elsewhere is a very effective aid in meeting situations at home.

Not only is this proposition true, but the enforcing official should know intimately the history of the legislation he is attempting to apply. He should be able to place the changes in the law according to time, and he should be closely familiar with the defects which made the changes desirable. To one who has studied closely the development of his legal field, who can measure and interpret the forces which have moved in it, comes a broader grasp and a keener intellectual conception so necessary to a well-balanced enforcement policy. To know the constructive tendencies from which the law has developed is to know the best means of confronting destructive and contending forces. Not only should the enforcement official be familiar with the actual statutes and their legislative history, he should be just as conversant with the decisions of the courts in his own state and the courts of other states in which these statutes have been construed. In this body of case law is to be found the principles which control the application of a workable enforcement policy. Here, too, is set out the breadth and limitation of authority, and here, too, is to be found the frame work of a sound legal point of view. The law, as finally laid down by the courts affords the only safe guide through the uncertainty of regulatory work. These decisions should thus be diligently studied by law enforcement officials.

Then again, law enforcement officials should be as well versed in the rules of construction as possible. What the law ultimately is depends, of course, upon what the courts construe the law to be. While it is admitted that the opinion of courts cannot be foretold, a study of the statutes, with a critical regard for the purpose and intent with which they were enacted, will be most helpful in their enforcement prior to actual court action. A knowledge of the rules of construction becomes of special significance when changes in legislation are desirable. The legislation should be carefully drawn with due regard to the interpretations which similar statutes have received. If this caution is observed, the legislation is apt to be effective and valid.

There is a great deal more that could be legitimately said on the subject of law enforcement. However, I have said enough to portray some of its difficulties and to work out the methods by which these difficulties may be met. I inherently and deeply believe there is no other way. True

local conditions may, and frequently do, demand modifications of general rules, but a rule that is fundamentally sound never loses that attribute by being bent to meet local needs. It is because of this principle that a national body such as this can be made of inestimable value. Here gather men of all states engaged in a work having a common objective and dealing with forces of universal application. Here may be worked out general enforcement policies; legislation broadly designed may be studied, leaving the individual states to mold it to meet peculiar local conditions; here a workable technique may be devised. In other words, this Conference, if earnestly entered into and just as earnestly followed, can be made the agency through which pharmacy may advance to uniformly higher standards. I believe that this body, rich in experience and national in outlook, can become a source of inspiration to pharmacists everywhere. If we, ourselves, meet our responsibilities, if we pool our resources, and merge into one scheme of action for our best efforts, this body should be able to stimulate a new conception of professional responsibility which will make itself profoundly felt throughout the field of pharmaceutical legislation.

Mr. Thomas Marns, Chairman of the Committee on Law Enforcement, of the Pharmaceutical Society of Great Britain, was called upon to address the meeting. He gave an outline of how the law is enforced and administered in England and touched on various laws that affect the pharmacists.

"The Pharmaceutical Society of Great Britain was formed in 1841, and received a Royal Charter of Incorporation in 1843. The objects for which the Society was incorporated are set out in the Charter. These are, *first*, the advancement of chemistry and pharmacy; *second*, the promotion of a uniform system of education for those practicing chemistry and pharmacy; *third*, the protection of those carrying on the business of chemists and druggists; and, *fourth*, to provide a benevolent fund. Those, briefly, are the objects of the charter under which we work to this day.

"In 1868, or prior to 1868, there had been some rather alarming poisoning cases in Great Britain, and the powers that be had to evolve something in the way of regulation of the distribution of poisons. During the years that had intervened between 1843 and 1868 the Pharmaceutical Society had made advancement, and Parliament saw in this new society a body which was probably the right and the only body to look after the sale of poisons in our country. So in 1868 an act of Parliament was passed giving the administration of the law relating to pharmacy and poisons to this newly formed pharmaceutical society. Since that day the Pharmaceutical Society has administered the poisons and pharmacy acts of Great Britain officially and without any charge to the state. It has all been done by the Pharmaceutical Society. It has not cost the state one penny, and I might say, in passing, that it has cost the Pharmaceutical Society quite a lot of money. It has cost the Society very much more to administer the Act than it has received in penalties. The Society has been complimented on the way it has administered the Act.

"There is a statutory penalty of £5 for certain breaches of the Pharmacy Acts. That sum of money cannot be altered; it remains at £5 and no court has any power to increase or decrease the amount. The Pharmaceutical Society retains the penalties which it collects. As the law is in England to-day, it is rather out of keeping with the general run of laws.

"The Society has its own inspectors and they go throughout the length and breadth of the country inspecting the shops of both registered pharmacists and other people who are dealing more or less in those things which are usually sold by chemists and druggists. The inspector makes a purchase and gets the necessary information, which is put on a special form and sent in to headquarters. Then the Law Committee, of which I am chairman and have been for the past five years, considers these cases. Each case is considered on its merits.

"In passing, I might say that there are in England, Scotland and Wales about 10,000 chemists' shops and roughly, 22,000 persons on the register. That does not necessarily mean that all those persons are engaged in retail practice. Some of them are in hospitals; some of them, of course, are in schools of pharmacy; some are connected with wholesale houses, working with laboratories, and others are oversea. But there are on the register about 22,000 people, and about 14,000 of them are members of the Society.

"Membership of the Society is not compulsory; it is purely voluntary and entails a subscription of a guinea and a half a year. Membership of the Society carries with it certain privileges, and, as I say, there are, roughly, two-thirds of the registered persons, or persons available for membership, who are members.

"The affairs of the Society are controlled by a Council of 21 members who are elected by the members of the Society throughout the country. Each member of the Council is elected for a period of three years, at the end of which time he is eligible for reelection if he desires to be re-elected and if the electorate desires to return him. Thus it is quite possible, should the electorate so desire, to change the whole personnel of the Council in three years. That council of 21 members elects its own president, vice-president and treasurer from among its members.

"The work of the Council is distributed among various committees. The Law Committee, with which we are dealing at the present moment consists of 7 members and a chairman. The Law Committee meets every month; so also does the Council and all the other committees. The reports of the inspectors are carefully examined. The Committee then considers each particular case on its merits, and decides whether to recommend the Council to claim a penalty, or whether a warning will suffice. The Committee's report to the Council is then written and this is presented by the chairman. The Council confirms it, and authorizes the Registrar to apply to certain people for £5 penalties. This he does through the Society's solicitor. He notifies the solicitor that so-and-so, in such a town has committed offenses under the Pharmacy Acts by doing so-and-so, and instructs him to apply for payment of £5 penalty.

"If that person pays the penalty that is all there is to it. There is no publicity. No one in the town knows anything about it. He simply sends the £5 to the Society and that sin is washed out. But if for some reason or other he does not do this, then the penalty is recoverable in the ordinary civil court as an ordinary civil debt. Our evidence is submitted to the court, and the judge, if he considers that the offense alleged has been proved by the Society, orders the person to pay the statutory penalty of £5. That, briefly, is how the law is administered.

"I have here, which I propose to pass around, the Registrar's report for 1931. During that period there were 170 cases in which proceedings were authorized. The results of the cases are shown. The Society's inspectors, as I say, call on chemists, chain stores, grocers, herbalists and on any person they believe to be retailing poisonous substances.

"The Pharmacy Acts demand that in every premises where the business of a chemist and druggist is carried on, that is, in every business in which poisons are sold, the business must be managed by a duly qualified, registered pharmacist, whose certificate must be conspicuously displayed in the pharmacy. Part of the work of our inspector is to see that these certificates are displayed.

"I have here the last report of the Law Committee, the report for June, which will give you some idea of how that works out. Under the heading 'Inspection of shops,' the report for England and Wales states 'since the last report 962 shops have been visited.' That is in one month. 'Of these, 611 were chemist shops. The certificates exhibited included, 281 Certificates of Membership, 290 qualifying examination certificates, 36 major diplomas, and 4 registration certificates. The remaining 351 shops visited were shops carried on by unqualified persons. In 22 of these, certain infringements of the Pharmacy Acts were reported, and these were submitted to the Committee for their consideration.' In other words, during the month our inspectors in England and Wales visited 962 shops of which 611 shops were chemist shops and in every case the certificate was exhibited. They also visited 351 shops carried on by unqualified persons and in only 22 of them did they find any infringements.

"The inspectors look for several things. They first of all look for the certificate of the qualified person, which should be exhibited. They endeavor to make a purchase of a poison. They also look for misleading titles, because no one except a registered chemist and druggist is permitted to use the titles 'chemist' or 'druggist' in connection with an open shop. The Pharmaceutical Society has never taken any action against a person using the title of chemist when it was not associated with an open shop, but if a person has a shop and uses the words 'chemist' or 'druggist' either as 'chemist' or 'druggist,' or chemist and druggist, or uses an adjective to modify the word 'chemist,' such as agricultural, or anything like that, a penalty is claimed and must be paid.

"I told you that the owner of a chemist's business must be a registered chemist and druggist. In 1908, Parliament legalized store trading, and corporate bodies were recognized as being entitled to carry on the business of chemists and druggists. To comply with the law the corporate body must have a registered chemist in each shop, and the certificate of that person must be conspicuously exhibited. The corporate body must appoint a 'Superintendent' who must be a registered chemist and his name must be notified to the Registrar of the Society. Any changes

must be notified. The Registrar then enters the name in a register which is set apart for the purpose.

"A chemist is the only person entitled to sell poisons, that is, those substances which are included in the Schedule of Poisons. The schedule is divided into 2 parts. Part 1 contains the more potent poisons that may only be sold if the vendor knows the purchaser, and knows for what purpose the poison is required. In the event of the vendor not knowing the purchaser personally, the purchaser must be introduced by some person who is known to the vendor. Before the sale is made, particulars showing the name and address of the purchaser, the name and quantity of poison sold, and the particular purpose for which the poison is required, must be entered in a special book kept for the purpose and the entry must be signed by the purchaser. Of course, the poison must be correctly labeled with various particulars including the name and address of the vendor."

Robert C. Wilson inquired whether there were special requirements with regard to the labeling.

Mr. Marns replied in the following and continued: "We have a Labeling of Poisons Order, which demands that the name of the poison, and the percentage of the poison present, must be on the label, and that is carried right down even to such things as bay rum and cantharidin toilet preparations. They must specify the amount of cantharidin present, and label it poison—a red label is not necessary.

"Chemists may use certain titles, such as I have explained and, of course, the Society not only looks after the people who are claiming the title of chemist, but it also looks after its own members to ensure that they do not claim titles to which they are not entitled. In other words, a pharmaceutical chemist, that is, a person who has passed the advanced examination, is solely entitled to the title 'pharmaceutical chemist,' and should a chemist and druggist use the title of 'pharmaceutical chemist,' the Society would claim a penalty from him just as it would if an unqualified person claimed the title of 'chemist' or 'druggist.'

"The chemist may also dispense prescriptions written under the National Health Insurance Acts. You are probably familiar with that for I believe that Mr. Linstead has dealt with that subject before. The chemist may also sell certain so-called patent medicines without paying medicine stamp duty. That is a privilege which is fast disappearing at the present moment. The law decreed that chemists and druggists could sell certain of these medicines without a patent medicine stamp. We are expecting legislation at any moment which will probably do away with that privilege. Then the chemist has the monopoly for the retailing of certain poisons. The Schedule, as I told you, is divided into two parts, Part 1, which includes the more potent poisons which require signature, and Part 2, which includes poisons which are not so potent and can be sold without a signature but which require labeling in the ordinary way. Then we have a class of poisonous substances, which includes such things as hydrochloric acid and liquid ammonia. These substances can be sold by any person providing he complies with the regulations with regard to labeling, and so forth.

"Then, also, there are a certain number of people who supply agricultural and horticultural poisons, such as arsenical or nicotine weed killers, and sheep dips. These people are not chemists, but they are licensed by the various local authorities, and they are permitted to sell these poisons, used for agricultural and horticultural purposes, in sealed containers, after seeing that certain regulations as to labeling and signature registration have been carried out. There are not a great number of these people, and they are usually in the country areas.

"All our legislation in England is the result of compromise, and when one goes to Parliament for legislation, all kinds of people with vested interests intervene. It is therefore a case of getting together and seeing how much you can give in order to get what you want, and the Society had to give way to the creation of this class of licensed vendors for purposes of agricultural and horticultural poisons. There are not many of them.

"There is no centralized supervision of the business of chemists and druggists. Practically every act of Parliament which affects a chemist is supervised by a different authority. For instance, the Ministry of Health is responsible for the administration of the National Health Insurance Acts. The Home Office, and the local police force acting under its direction, is responsible for the administration of the Dangerous Drugs Acts. The Privy Council, acting on the advice of the Pharmaceutical Society, decides what substances shall be included in the Schedule of Poisons.

The Board of Customs and Excise regulates dealings in spirituous preparations and administers the Medicine Stamp Act affecting patent medicines. The local authorities administer the Weights and Measures Act and the Food and Drugs Act and, as I told you, the Pharmaceutical Society of Great Britain administers the greater part of the Pharmacy Acts. So you see there is a considerable overlapping of work, and simplification is greatly to be desired.

"Briefly, the provisions of the law for which the Society is responsible are, as I said, that in every shop there shall be a pharmacist whose certificate is exhibited, that unqualified men do not sell poisons, and that persons, both qualified and unqualified, do not use descriptions to which they are not entitled. For instance, 'Pharmaceutical chemist' must not be used by those who have not passed the advanced examination, and a man must not describe himself as a member of the Pharmaceutical Society of Great Britain if he is not a member. He may be a registered chemist and druggist, but if he describes himself as a member, he is committing an offense, and the Council may require the payment of a £5 penalty. Unqualified men may not use titles which are restricted to qualified men.

"As I have said, there are, roughly, 10,000 chemist shops in Great Britain. There are also a great number of herbalists, oil shops, iron mongers, grocers and people like that who sell preparations which may contain poisons. Not only are the sales of these poisons and poisonous preparations kept solely to qualified persons, but also patent medicines containing a very small portion of a poison. For instance, we have quite a number of patent medicines, nationally advertised in England, that contain a very small percentage of a poison, and are therefore within the Pharmacy Acts, and their sale is restricted to chemists and druggists. Quite a number of grocer shops and general shops have patent medicine licenses which enable them to sell patent medicines, but they must confine their activity to patent medicines containing no poisons.

"As I said, the Society has its own inspectors who are women. There are 5 full-time inspectors, and none of them is a pharmacist. Two are engaged in London, one in Scotland, and the others elsewhere. The Society employs women because it has been found that women are particularly suitable for the work. Pharmacists are not employed for two reasons. *First*, their duties do not necessarily involve a knowledge of pharmacy because they do not inspect chemist shops minutely. Their duties are mainly connected with seeing what titles are exhibited, and purchasing poisons as an ordinary member of the public might do. *Second*, as the Pharmaceutical Society is the prosecuting body, it is best that the inspector, when she gives evidence against an unqualified person, should not be a pharmacist and so give the impression that she may be prejudiced against the unqualified man.

"The Society also has a great many part-time inspectors all through the country. These people are usually ex-police officers who are retired and who are familiar with the work they are required to do. They are used for following up previous inspections and for any special work. For instance, when it is found that an offense under the Pharmacy Acts has been committed at a shop and a penalty has been received, that shop is visited very shortly afterwards to see that everything is now as it should be. That is how these part-time inspectors are used.

"The whole question of the pharmacy and poisons laws of our country has recently been under investigation. There are so many laws, going back such a long period that things are in a more or less chaotic state, and it is extremely difficult for any person to be thoroughly acquainted with all the laws that affect pharmacy. There is not the slightest doubt, and the Society has been the first to admit that certain laws which were probably perfectly good laws in 1868 are not desirable to-day, and that there is an urgent need for coördination and simplification of the various laws that affect the business of the chemist and druggist in Great Britain. The government realized this some time ago, and they set up a departmental committee on which were a number of people who were especially qualified for membership. The Committee heard a very great deal of evidence. This evidence was given by practically every person, or body who made any claim to the distribution of poisons or poisonous substances, either for sale by retail, or for use in the arts and crafts. This committee sat, I think, for a period of about 3 years, at the end of which time it published a report. The report was not unanimous. There was a majority report, a minority report and the report of one particular member who couldn't come down on either side, and who sat on the fence and tried to make the best of both worlds. This report was published, and certain recommendations were made. Then a change in government came along last year, the Labour Government was replaced by a new national government which had such special, urgent work to

do, work of national importance, that they had not the time to devote to what is, after all, a very small matter to the general populace. But all that evidence has been pigeon-holed, the report has been published, the recommendations have been noted, and there is no doubt that when Parliament finds itself in possession of the necessary time to consider these recommendations of the departmental committee, the laws controlling the selling and distribution of poisons in our country will be revised and simplified.

"There will probably be a 'Poisons Board' that will consider what substances shall be deemed poisons and what special restrictions shall apply to them.

"The Pharmaceutical Society will be represented on that Board and will continue to administer the poisons and pharmacy acts. From many points this is very desirable, because it will do away once and for all with the great disability under which the Pharmaceutical Society, which is a voluntary body, has been labouring for so many years, and that is the plea of monopoly. Whenever the Society goes to the Privy Council and asks for certain extensions or for certain articles to be added to the Poisons Schedule there is always a tendency for some one to suggest that the Society whose members already have a monopoly is trying to increase that monopoly by getting these things on the list of substances which can only be sold by chemists and druggists."

Mr. Marns thanked the chairman and members and welcomed questions which he would endeavor to answer and referred to Mr. Herbert Skinner as a member of Council for 20 years who would answer questions he could not.

Chairman Swain on behalf of the Conference, thanked Mr. Marns for his illuminating address.

Mr. Marns' address was discussed by G. V. Kradwell, Wisconsin, George Judisch, Iowa, L. L. Walton, Pennsylvania, H. G. Ruenzel, Wisconsin, R. P. Fischelis, New Jersey, E. F. Cook, Pennsylvania, R. C. Wilson, Georgia. It was pointed out that the usual violations of the pharmacy laws in the United States consisted in the compounding and dispensing of physicians' prescriptions by legally incompetent persons, and in leaving a pharmacy in charge of unregistered clerks. It was shown that dispensing by English physicians was dying out. The effect of the insurance system on the practice of pharmacy was referred to. It was pointed out that prescriptions are written on special forms, and that the amount to be paid by the patient for the prescription is passed upon by a pricing department. The discussion brought out that strict supervision is maintained over the qualifications of those owning or operating a pharmacy in England. Ownership is restricted to chemists who have passed the qualifying examination and limited liability companies. Such companies are corporate bodies, and they must keep qualified pharmacists in charge of their stores, a qualified superintendent on the board of directors, and all of this data must be certified to the Pharmaceutical Society. The enforcement procedure was shown to differ materially than is usual in the United States, but this was due to differences in court procedure.

Mr. Herbert Skinner, being called upon, inquired relative to the position of this body, whether it is a statutory body trying to enforce an Act, or a voluntary body.

Chairman Swain replied—purely voluntary, coöperating in working out policies that can be applied in the various states.

Mr. Skinner inquired whether there were pharmaceutical authorities in the respective states, that have statutory power to enforce the law.

Chairman Swain replied that every state has some statutory body, empowered under the laws of that particular state to enforce the pharmacy law. In probably three-quarters of those states, the board of pharmacy of the state is both an examining body, conducting the examination, granting registration, and things of that character, and is also the enforcing body. In some states it is done by what is termed a consolidated enforcement board, and one board, operating under some professional division of the state government controlling the professions, will enforce laws governing the professions, including pharmacy. Under the consolidation system the work is probably not as strenuously pursued, because of the fact that the body is entrusted with so many enforcement activities.

In a limited number of other states, Maryland being one, the examination and all matters doing with the actual registration of pharmacists are in the hands of the Board of Pharmacy but anticipating somewhat the difficulty of enforcement, as so ably presented by Mr. Marns, the actual enforcement of the Pharmacy Law, Poisons Law and Pure Food and Narcotic laws is in charge

of the Board of Health of the state, and those laws are enforced as a part of the public health program. These three divisions differ only in method. They are all aimed at the same objective; every state of the Union has some body legally authorized and empowered to enforce the pharmacy law.

Mr. Skinner said that this brought him to a point referred to by Mr. Marns that a body had been appointed to investigate the whole administration of the law in pharmacy; it has been up for some time, reported, and finally the bill is suspended at the present moment, but it is significant for every one connected with pharmacy that after the full inquiry that committee recommended that certain laws should be enacted, and the administration, inspection, and so forth, still should be in the hands of the Pharmaceutical Society of Great Britain.

He said that the present schedules of poisons are utterly unsatisfactory; they are too limited. He stated that although it seems anomalous that every pharmacy should depend upon the sale of poisons, it is the only statutory thing obtainable. A doctor in England, for instance, is only protected in one feature—his title is protected, as is that of pharmacists; but the only thing about it is that no one but a doctor can sign a death certificate—that is his sole protection and the sole protection pharmacists get apart from the title is the sale and distribution of poisons. He commented that the weakness of the law in Great Britain is lack of control over doctors—a doctor can get rid of as much poison as he likes. But in this inquiry that was brought out, the secretary of state, through the Poisons Board, had quite an easy time getting hold of that end of the stick. He stated that at the present time pharmacists have no control whatever over hospitals. The dispensing department of every hospital in the land is quite outside the Pharmacy Act. That they do comply is because the chiefs are always pharmacists, or at least about 90 out of 100. Yet that inquiry committee actually placed in the hands of the secretary of state, acting through the Poisons Board, has the power to deal with situations like that.

Mr. Skinner concluded by thanking the Chairman and members.

Chairman Swain called on Colonel C. H. L. Sharman, Chief of the Division of Narcotic Control, Ottawa Division. He spoke in part as follows, indicating the line of action with regard to narcotics in Canada.

"The matter of public health, as such, is essentially a provincial proposition. All physicians, surgeons, doctors and druggists are examined, licensed and registered by the provinces and the various associations. The physicians and surgeons of the province of Ontario, for instance, have their own inspectors who conduct such work as is deemed necessary. While public health is essentially a provincial matter, the courts have decided that control of narcotics from a federal standpoint is necessary. We, of course, as a nation have many international obligations, particularly the Geneva Convention on the Control of Narcotics, and we have, as Dominion legislation, a very effective narcotic act. I will only touch lightly on the illicit side of it, because I will make my point in reference to it later.

"We consider that the Act possesses three main advantages: *First*, dealing with purely illicit traffic, the deportation of aliens, and the imposition of the lash. As far as I know, we are the only country that does impose the lash, and it is very effective. Our courts are empowered to impose penalties up to seven years in prison, a penalty which is not infrequently imposed. We also deport aliens convicted of violations of the Narcotic Act, irrespective of the time they have been in Canada, if they are not Canadian citizens. In this country, the large majority are Chinese.

"In the enforcement of the Act we find that the use of what we call "writs of assistance" is exceptionally useful. A writ of assistance is a blanket authority to search given by a judge of the Exchequer court to the enforcement officer. Discretion is naturally used with regard to the officers who are given those documents. It is a blanket warrant permitting entrance into any private house in Canada, by day or night. We have had those for some three years now, without having a single cause for complaint.

"With those very effective provisions in our Act we are able to function effectively. Public opinion is behind the enforcement of our Narcotic Act in Canada, and because it is so we, as a matter of policy, figure there is a very wide distinction between getting after a drug trafficker on one hand and imposing a stiff penalty, and labeling the professional man, whether doctor or druggist, as being convicted under that Act. We make a very marked distinction between a man who has an illicit intent and a man whose guilt is occasioned by negligence. We have, in the course of a year, a number of professional cases. This year a doctor has been sent to the penitentiary for

two years and a veterinary surgeon for four years, cases absolutely of illicit traffic, but we have hundreds of cases in which there is merely negligence, druggists who do not keep their narcotic registers up-to-date, or accept telephone orders from doctors. We feel that there should be a distinction between those cases of negligence and the cases of illicit intent.

"I was rather impressed last winter with a report of a meeting of the British Pharmaceutical Association, at which our friends, Mr. Marns and Mr. Skinner, were present. A speaker at this meeting said that surely it is possible to control the illicit traffic without penalizing the chemist for oversight, such as the omission of putting the date on the prescription. Personally I agree with him. Our minimum penalty under the Narcotic Act is \$200.00.

"We handle the professional man in this manner, assuming always there is no suspicion of illicit intent. If it is a druggist who has been negligent we point out where his sin of omission occurred, and we request of him that there be no repetition. We write hundreds of such letters. In 70 per cent of the cases we get an immediate reply, usually with a word of thanks. If we receive no reply, we write again in a month, and that letter is a little stiffer. That usually brings results. In about one per cent of the cases we get no reply, and those gentlemen's names are added to what we call the confidential restricted list.

"We have in Canada 108 licensed narcotic wholesalers. Part of their obligation is to do as they are told in so far as the persons to whom they supply are concerned. Every quarter we issue to all the wholesalers a confidential list of the people to whom they cannot supply narcotics. Therefore, from the administrative angle, we find it quite possible to make a clear distinction between a man with an illicit intent and a man who is negligent.

"We have in Canada about 4000 retail drug stores in operation. They are regularly inspected once a year, or more often, and the narcotic registers, which they are supposed to keep. Any drug store that isn't absolutely up-to-date is revisited. The prescriptions on file are checked with the register. They are checked to see that the prescriptions are dated, that they are signed and not initialled, and, as occasionally now happens, whether there are indications that the order was a telephone one, which we do not permit. Any variations from the normal are reported and the system of one, two or three letters is put into operation.

"We found some years ago, particularly in cities where the supply of illicit narcotics was becoming smaller due to incarceration of those who previously were in that business, the attempts to get narcotics from legal sources were very much on the increase. We had complications in addition to the ordinary ones of holdup and forgery. We found that one particular offense which was becoming altogether too common was obtaining narcotics by men representing themselves to be physicians, over the telephone. A man would telephone to the wholesale drug store, saying, 'Dr. Jones speaking. I want an ounce of morphine sent up to my office right away.' The store would dispatch the ounce of morphine by means of a messenger boy. This man would be waiting outside the doctor's office, and when the boy came he would say to him, 'Are you from so-and-so? How much is it?' pay him the money, sign the receipt, and when the lad came back to the wholesaler they would look at the signature, and find it was not that of the doctor it purported to be. So on every narcotic license we issue to our wholesale druggists are the instructions, 'No narcotic is to leave the premises until a properly signed order has been received on the premises and passed on by a responsible officer, failing which the license will be canceled.' We have had two violations since and appropriate action was taken in the courts.

"Thefts of narcotics from drug stores are quite common. Sometimes they run in series. In one city we had 23 in less than three months. It takes time to find out who is suspected of doing it, and still longer to definitely prove that he has done it. Within three months the persons were arrested and sent down for long terms.

"Another condition of our license granted wholesalers is that they cannot supply more than one ounce of any one narcotic in any one month to any professional man without special permission. We find that one ounce is enough for the average professional man, even a retail druggist, but we frequently grant permission for excess quantities upon cause being shown. That is only necessary about 25 times a year. Sometimes a country doctor will run into three or four cancer cases, and it is only a matter of 48 hours to write in and get authority for a larger supply.

"In the last twelve months we have not found it necessary to bring court action against a single druggist. In the year previous we had some cases, but the coöperation we receive from the profession to-day is remarkable. We have 36 registrars in Canada, 4 in each of the 9 provinces,

for doctors, druggists, veterinary surgeons and dentists. We receive monthly reports from them on additions and changes on their lists. As the thousands of narcotic transactions from these 108 wholesalers come into our office monthly, each one is checked as to the eligibility of the person to get the narcotic, and they are charged up against the person concerned. A person may be purchasing from two or three sources. When we get all the sources together we can tell whether such person is getting too much. We frequently investigate persons, who are ordering quantities, not even in excess of one ounce, as to the necessity of their buying it and what they did with it. We have full authority to obtain that information.

"We have also obtained a judgment from our Court of Appeal that the druggist is responsible for the actions of his employees. A certain preparation with a heavy narcotic content was being sold in a certain city, and although the druggists were warned, we knew this was being sold without a prescription; subsequent investigation showed that the warning was not heeded. A large number of them were taken into court and charged. In each case the defense was made they didn't know anything about it, that their clerks must have done it. As soon as the court decided that the responsibility rested with the druggist himself the situation very soon cleared up.

"Reference has been made to hospitals. We do not limit a hospital to one ounce a month. Under our definition of a retail druggist we say a retail druggist means a person registered and licensed to carry on business as such, who is carrying on such a business, or is in charge of dispensing in any hospital in the province in which such a person is so licensed. So we have practically as much control over the narcotics used in the hospitals as we have over the narcotics which are bought by a retail druggist and concerning which he reports when called upon, and whose premises, prescriptions and narcotic registers are examined.

"Addiction to narcotics certainly does exist in Canada. We estimate there are 8000 addicts in this country, most of them are what we term criminal addicts, for whom I personally know of no solution; their associations are such that any definite program for cure is a matter certainly of the future. Then there are a number of people who receive narcotics for definite medical conditions and a small residue of people addicted, some of them occupying fairly high positions, concerning whom we take definite action under conditions of great secrecy. We find that when the narcotic has been withdrawn, but not until then, the person is amenable to reason and it is possible to indicate to him what will happen if addiction again prevails.

"If a medical man, for instance, is addicted, he may be put on our restricted list which, although it is confidential as it must be, may affect his professional standing; in fact, his means of livelihood. He has to weigh that against reverting to his addiction. Of 27 cases involving professional men, of practically every profession, 25 have definitely been off narcotics for periods ranging from 2 to 4 years, but we are not making any claim at all until a period of 5 years has gone by without the use of narcotics.

"At the present time paregoric is occasioning us quite a little anxiety. Paregoric is excepted under our law as in other countries, nevertheless, when one retail drug store buys 40 or more gallons, in one month we consider it is about time that somebody stepped in. We have taken certain steps, but we would much prefer to see the retail druggists themselves control the situation, and not compel the Dominion Government to do so.

"We feel that so far as the legal control of narcotics is concerned, we get much farther along the line of control by the coöperation which undoubtedly exists between the Department and the professions concerned. The success of the whole subject of narcotic control is a matter of coöperation.

"Canada has a special treaty with the United States providing for the exchange of information and for the exchange of prisoners, and that is 100 per cent effective. We are in frequent telephonic and telegraphic touch with Washington, and meet with Messrs. Nugent, Tennyson and Anslinger, of the United States Narcotic Service. The same coöperation applies to Great Britain. The chiefs of the three Narcotic Services met last year at Geneva when the international convention for the control of the limitation of the manufacture of narcotic drugs was put through. We frequently exchange information about these gentlemen who make a practice of importing large quantities of illicit narcotics."

"If ever a lesson has been learned by me, it is that no *one* man in the world can make any success of narcotic control. He must put what he knows into the pot and learn from what the others are doing."

A. L. Tennyson, Legal Adviser from the Federal Bureau of Narcotics, Washington, D. C., was called on.

His remarks dealt largely with the State Uniform Narcotic Law. He opened the discussion by presenting the question which had been asked relative to the need of a uniform State narcotic law. He continued his remarks by stating that "unlike our friends in Great Britain and in Canada, the Federal Government is confronted with certain constitutional limitations. I believe that is true in Canada to a certain extent, but you all know that in the United States the police power, generally speaking, remains with the states. The Federal Government has only certain specified powers under our constitution, and it must remain, in so far as police control is concerned, within those specified powers.

"Our principal problem, in so far as narcotics are concerned, is the matter of preventing smuggling. Most of the illicit use of narcotic drugs in the United States has its source of supply in smuggling and, therefore, the first effort must be directed against the prevention of smuggling.

"Secondly, there is the necessity, in so far as the Federal Government is concerned, to control the unlawful interstate traffic in narcotics and, thirdly, the control of what we term the wholesale illicit intrastate traffic in narcotics. We feel that if we perform those three duties we have done just about all that can be expected of the Federal Government.

"We have a limited force of not to exceed 275 agents and inspectors, and naturally with such a comparatively small force as that we can't be expected to police all of the United States with 120,000,000 people.

"The matter of the smaller type of retail drug peddler we feel is one which comes within the cognizance of the several states, with both legislation and enforcement. We also feel that the matter of revocation of licenses of practitioners and pharmacists, in fact, of manufacturers and wholesale dealers, is something which comes more properly within the scope of state control than it does Federal control. We also feel that the matter of treatment of the narcotic drug addict—I speak here of the compulsory treatment of the narcotic drug addict who is possibly curable in the sense that he has no physiological condition aside from drug addiction which would militate against the withdrawal of the drug—is a problem which should be met by the several state, county and municipal governments.

"To this end, therefore, the Conference of Commissioners on Uniform State laws, which is an organization composed of representatives from each state of the United States, meets annually just prior to the meeting of the American Bar Association, and has been formed for the purpose, among others, of considering the drafting of a uniform state narcotic law. Previously this duty was performed, perhaps more or less exclusively with the cooperation of the American Medical Association. I think when the first draft was prepared of this uniform state narcotic law the Federal Narcotic Bureau, at least, didn't see a copy of it. When the second draft was framed the next year we did get a copy of it from Dr. Woodward, of the American Medical Association, who requested criticisms and suggestions, which were made. We didn't see the third draft, if there was one, but the fourth draft, considered last year at the Atlantic City conference, was submitted to the Bureau, and again the Bureau took the opportunity to make quite a number of criticisms and suggestions of this law, based particularly on its own experience in Federal narcotic law enforcement.

"At the time the fourth tentative draft was being considered it came to the knowledge of my chief, the Commissioner of Narcotics, that the pharmacists, drug manufacturers, the wholesale dealers, and perhaps the proprietary association, were considering, or had considered, that they had been overlooked in the matter of preparing this draft of a state law, because apparently they hadn't been consulted about its phraseology. Naturally, being persons who came in daily contact with narcotic drug problems, they felt that they should be consulted on the formation of any law which was going to be submitted to 48 states with recommendation for passage, because they, of course, would have to live under that law and operate under it. So Mr. Anslinger, my commissioner, last year asked Judge Deering, of Maine, who happens to be chairman of the sub-committee of the Conference in charge of this particular piece of legislation, to consult members of all associations and, in fact, all private persons, who might have any interest, or might have any information to contribute with regard to the phraseology of this fifth tentative draft of a uniform state narcotic law.

"I might mention, just in passing, that we consider it very important this year that we

have a final draft of this uniform narcotic law, because the legislatures of something like 40 of the states are going to meet on or after January 1, 1933, and we feel it is a good psychological time, with public interest aroused in the question, to have a final draft of this law presented to the various state legislatures for passage.

"As a result of Mr. Anslinger's contact with Judge Deering, the Judge expressed himself as highly in favor of obtaining the views of all the associations concerned in narcotic drugs, or narcotic traffic, or administration. As a result of this Judge Deering has expressed the intention of calling a preliminary conference, probably the early part of September, for the purpose of having representatives of all the associations present to give their views as to the phraseology of this draft, particularly after a study of the text of the draft as submitted to them.

"Mr. Anslinger appointed a committee in his own office, consisting of myself, another lawyer from the office, and a legal representative of the United States Public Health Service, for the purpose of going over the fifth tentative draft, which was prepared by Dr. Woodward, the medical legal representative of the American Medical Association, and to review it in the light of amending it wherever necessary, for the purpose of considering the interests not only of the American Medical Association and not only from a strictly enforcement standpoint, but also of the drug manufacturer, the drug trade and the pharmaceutical profession.

"That we have endeavored to do in the past month. The committee has only completed its revision of this fifth tentative draft as submitted by Dr. Woodward, and having done it perhaps more or less under pressure and hurriedly, naturally it is probably susceptible to much criticism, but at any rate it seems to be a step forward in arriving at a final draft to be submitted at this preliminary conference, because we believe if we can get the sub-committee to agree on this fifth tentative draft then we will have a much better chance of getting the Conference itself to accept the draft and to have it approved by the American Bar Association, at which time it will be submitted to the several states and may stand a fair chance of enactment into law in, perhaps, the majority of the states.

"If the Chairman and the members of the Conference will bear with me I will endeavor to go over some points in this that I consider perhaps of special interest to the profession of pharmacy.

"In the first place the Act commences, as do many acts of this kind, with a group of definitions. I won't bother to read all of those because Dr. Swain has been furnished with a copy of this fifth tentative draft and will probably make it available to you sometime after your convention. But I think one definition is of concern to you, and that is the one which deals with your own profession, which we have denominated, in accordance with the other drafts, as 'Apothecary.'

"The definition is: 'Apothecary' means a licensed pharmacist or druggist as defined by the laws of this State, or the proprietor of a pharmacy in which a licensed pharmacist or druggist is employed to compound medicines for sale pursuant to prescriptions."

"We have changed that definition given by Dr. Woodward because he stated, 'Apothecary' means a licensed pharmacist or druggist as defined by the laws of this State.

"There are a number of pharmacies where the owner of the pharmacy is not necessarily a pharmacist himself but employs a licensed pharmacist to fill prescriptions. Under the Harrison Law we permit registration of a pharmacy even though the person applying for registration is not himself a pharmacist, provided he is entitled under the laws of the state to engage in the dispensing of narcotic drugs. That means that we can register a corporation under what we term Class 3 of the Harrison Law, our Federal law dealing with narcotic drugs, because a corporation would be entitled to registration if it had a regularly licensed pharmacist in charge. As a matter of fact, that is what the chain stores do.

"We have used the definition for 'Coca leaves'—'includes cocaine and any other compound, manufacture, salt, derivative, mixture or preparation, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.'"

"Section 3 of the Act, which is perhaps the most important provision in the Act, reads 'It shall be unlawful for any person to produce, manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound any habit-forming drug, except as authorized in this Act.'

" 'Habit-forming drugs' mean opium, coca leaves and any salt or derivative, and Cannabis

indica, and may not be sold except as hereinafter authorized in this Act; therefore, it becomes important that in the rest of the Act you provide exceptions for all proper, legitimate medical use for narcotics.

"Incidentally I might state for the benefit of any who perhaps may not know it that it is unlawful to import any manufactured form of narcotic drug into the United States. Nothing may be imported except the crude opium and coca leaves.

"We have provided for the licensing of manufacturers and wholesale dealers. That is something new, and, as I believe one of the gentlemen who preceded me remarked, otherwise you have practically no control, or not much control, over the wholesale dealer. We felt that he ought to be licensed. Any person who has \$12, theoretically can deposit his \$12 with the Collector of Internal Revenue and, if the state law doesn't prohibit him from engaging in that business, he can register under the Federal law as a wholesale dealer; therefore, if he receives order forms from qualified people, or from persons who stole those order forms, he can fill those order forms, and he can dispense to whomever he pleases, and you can't get him until you ascertain the fact of unlawful sale. We, therefore, feel that manufacturers and wholesale dealers should be registered, and we provide certain qualifications, as to standards of financial responsibility and technical qualifications.

"In another provision of this Act we provide that apothecaries—that means, of course, pharmacists—may in good faith fill narcotic prescriptions. We urged that those words 'in good faith' be placed in there, in order that the pharmacists would not feel, as a circuit court of appeals in the United States decided on one occasion, that a pharmacist might fill any prescription for narcotic drugs that was presented to him regardless of whether he knew, or must have known, from his professional experience that such prescription couldn't possibly be for medical use.

"In the case in which that arose we prosecuted the doctor in St. Louis, and the drug company also, I believe, at the same time. This doctor had been in the penitentiary at least once before for improper narcotic activities, and from the time of his last release from the penitentiary, in a period of about eight months, he issued something like 10,400 narcotic prescriptions, ranging from 10 to 30 grains of morphine each. His practice consisted of nothing but narcotic addicts, and on the day he was arrested for that offense the Federal officers kept his office open for him and arrested 20 addicts. He charged \$1 or \$1.50 for each prescription, and two drug stores, one in particular, were filling these prescriptions. That druggist consulted counsel when he saw that he was getting a large number of prescriptions from this doctor, and the counsel said, That is all right. You can go ahead and fill those prescriptions because he is a licensed doctor and everything is all right. You need not question the prescriptions. A circuit court of appeals said, in effect, that was right, that that was a correct interpretation of the law.

"We got rather excited about it down in our Bureau, and we endeavored to have the attorney general get that case reviewed by the United States Supreme Court. The attorney general said that, while he didn't agree with the legal basis for the opinion, he thought it was not a proper case to apply for the extraordinary remedy of a writ of certiorari. However, we are glad to say that since that decision was rendered several years ago, there doesn't seem to be any rush on the part of pharmacists to fill large numbers of illicit or improper narcotic prescriptions.

"What we want to do is to put the requirement of good faith on the pharmacist in filling prescriptions. When that was endeavored to be done some years ago with the Harrison Law, to my surprise we received objections before the congressional committee considering the proposed amendment from both the doctors and the druggists. We didn't anticipate any from the doctors, but it seems that the doctors took the position that it was making the pharmacist the censor of his professional practice, and he very strongly objected to that. The pharmacists objected, I believe through Mr. Brockmeyer, on the ground that pharmacists couldn't be expected to know what was going on in the doctor's office several miles away in the matter of prescribing narcotic drugs.

"But that is beside the point. We were not seeking to make the pharmacist the judge of the physician. We were only seeking to make him exercise good faith in the practice of his profession. What I mean to say is if he receives, for instance, over a period of time, several prescriptions written for half-grain morphine tablets, a size not usually prescribed, I believe that should call his attention to the fact that there is something unusual in that case and perhaps he should make inquiry about it. That is all we were asking.

"Pharmacists have done that before, and I have it from a former chief of my office, who happened to himself be a registered pharmacist, that on three or four occasions, during the course of ten years' experience in the filling of prescriptions in Illinois, he had had occasion to call up a physician about a certain prescription that had been presented, and to ask him whether he wanted the prescription filled as written. The prescription called, I believe, for a certain ingredient which would have killed the patient had he filled it as written. The doctor said, 'Oh, no, I will be right down to the office and give you a correct prescription.' I think that goes to show the necessity of some intelligent discretion that all pharmacists should exercise in the matter of filling prescriptions.

"We would, therefore, like to urge good faith in the matter of filling narcotic prescriptions, and that is all this Act purports to do in so far as the pharmacist is concerned in filling narcotic prescriptions. If he exercises good faith and makes some inquiry, perhaps, where inquiry seems to be proper, he will not run into any trouble, I am sure, in so far as the operation of this law is concerned.

"That is the principal point that I wanted to bring home to you gentlemen. I do think it is important. Of course, one prescription, two prescriptions or three prescriptions for narcotic drugs for the same patient may not mean anything providing the amounts are comparatively small, but when you get a case, as we ran into on one occasion, that is not good faith. One of our district supervisors, a big, strong, healthy chap, who I don't believe ever had a sick day in his life, went into a physician's office in Arizona and obtained within the space of a week two prescriptions for one gram each of morphine, and went out and had them filled without question. That is what we mean by stressing the requirement of good faith.

"The matter arose next about the sales by apothecaries in general, of course, always speaking now of apothecaries in the sense of licensed pharmacists for the purposes of this discussion. In Dr. Woodward's draft he provided that apothecaries might sell upon prescription, but I think he overlooked the fact that an apothecary on rare occasions may have to make other sales. The first thing that occurred to us in our experience down there was that quite frequently we have requests from druggists who want to know how they can dispose of their entire stock. They want to go out of business; they want to sell to another retail druggist. What do they have to do in the matter of transferring the narcotic stock, and if they do transfer it do they become liable to a higher tax as a wholesale dealer? Technically, of course, they would. They are selling stamped narcotic packages, and that makes them liable under the Harrison Law for the wholesale tax. We have, however, provided that that does not make them so liable, that if a druggist wants to sell his entire stock to another druggist in a single sale he may do it, or he may return it to the manufacturer or wholesale dealer for credit. He may do it not only under the Harrison Law as he does not, but under this Act. We provide specific authority for him to do that, and also permit him to sell on an official, written order certain aqueous or oleaginous solutions which are required from time to time by specialists, such as nose, ear and throat men, and dentists who wish fresh solutions particularly of cocaine. Formerly it was objected to because they had to send away to a wholesale house, or even to a pharmaceutical manufacturer. Because they have to have this cocaine solution right along and because it is subject to rather rapid decomposition, it frequently was quite a burden upon the busy practitioner to keep himself supplied. He was in the habit, prior to the Harrison Law, of going down to the corner drug store, where the facilities were for making a sterile solution of cocaine, and getting it there.

"Of course, a literal interpretation of the Harrison Law would prevent that, so an exception was made to provide for the selling of these aqueous and oleaginous solutions, providing the narcotic content did not exceed 20 per cent of the completed solution. We found that had been overlooked in Dr. Woodward's draft and, therefore, we inserted a provision permitting the pharmacist to sell upon a written order to a physician, dentist or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of habit-forming drugs does not exceed a proportion greater than 20 per cent of the complete solution, to be used for medical purposes.

"We thought it was proper to put those two exceptions in, and we knew if it wasn't we would hear from the retail druggist about it.

"Next we come to the question of exempt preparations, paregoric, cordials, drops and numerous cough remedies. Gentlemen, this was a very perplexing provision, as you can well imagine. We tried to frame it in accordance with the Harrison Law, with one exception, how-

ever, and that is one which appears to meet the approval of the American Medical Association; in substance we have included their draft on this point: that is, in the matter of restricting the sale of an exempt preparation, such as paregoric, as follows: 'That no person shall sell or dispense, at retail, to any one person, or for the use of any one person or animal, within any forty-eight consecutive hours, more than one preparation, liniment or ointment included within this section, and then only in a quantity not to exceed two ounces.' In other words, it limits the sale of exempt preparations to two ounces every forty-eight hours. That is the only addition to this law over the Harrison Law.

"In other words, we have made an exception here that the entire act shall not apply to the manufacturing, selling and dispensing, or possessing of any medicinal preparation that contains in one fluidounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, not more than 2 grains of opium, or more than one-quarter grain of morphine, or of any of its salts, or more than 1 grain of codeine or of any of its salts, or more than one-eighth of a grain of heroin or of any of its salts, or more than one-half grain of cannabis or of any of its salts. We put cannabis within the exempt list. Those preparations may be sold subject to the provision I have just mentioned and to two additional provisions, one of which is in line with the Harrison Law, that such preparations are manufactured, sold, prescribed, dispensed or possessed in good faith, as medicines, and not for the purpose of evading the provisions of this Act. That is necessary to guard against improper sale of paregoric and other preparations.

"We had a case come up in our experience down there of a lady who was buying a certain cough remedy, and she bought something like several hundred dollars' worth of it within a period of one or two months in the summertime. It seemed perfectly clear that the lady didn't have use for several hundred dollars' worth of cough remedy for any cough she might have. She was buying it for the morphine content. Therefore, it is necessary to control the sale of exempt preparations, just as Colonel Sharman has very clearly expressed. We try to limit it in this Act, similar to the Harrison Law, to sale for medical purposes, and also provide for the licensing of the manufacturer of these exempt preparations. We don't provide for the licensing of the dealers. We don't do that because I don't think we would get very far with it.

"As you gentlemen probably know, there are numbers of persons who sell paregoric, and exempt preparations, who have no pharmacy training whatsoever, nor do they have any medical training. The argument is advanced that in certain sparsely settled regions of our country there isn't enough trade for pharmacists, that the farmer out there in the great open spaces sometimes has a stomach attack and he requires a dose of paregoric, which the corner grocery store sells. It is only for medical purposes. Personally I don't think that is a good situation, because if a person who doesn't have some scientific training to know the treatment for which paregoric is indicated, such as a physician or pharmacist, sells it, there is apt to be improper use of it, and we have found that out from our experience. However, it is rather perplexing to know how to deal with it. Apparently the states are not yet ready for the limitation of the sale of paregoric to the medical and pharmaceutical professions, so I don't know just what we can do about that.

"Quite frequently our men have gone around to inspect drug stores, that is, an off-color drug store, of which I believe there are comparatively few, and just the minute a man walks in and says, 'I am the narcotic inspector,' the man behind the counter says, 'Oh, yes, I had a robbery.' Immediately the inspector checks up the store and he finds there is a great shortage there.

"Under the Harrison Law he is supposed to report within a certain specified period all robberies or thefts to the local office and also to the collector of internal revenue. We want to do away with that question of doubt of the loss or robbery by making it mandatory that he shall keep a record of all those things, and if he doesn't it is up to him to explain why.

"Next is the matter of labels. I do not believe this adds anything whatever to the present procedure. 'Whenever an apothecary shall sell or dispense any habit-forming drug pursuant to a prescription issued by a physician, dentist or veterinarian, he shall affix to the bottle or other container in which such drug is sold or dispensed, his own name, address and registry number, or the name, address and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address and registry number of the physician, dentist or veterinarian by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface or remove any label so affixed.'

"The pharmacist's label is supposed to stay on all the time so that there will be no question as to its legitimacy at any time it is inspected by either Federal or state inspectors.

"I am passing by a number of these provisions, that do not particularly concern your profession, however, you will be given a chance, of course, to read the whole thing and to determine that question for yourselves.

"Now the matter of suspension and revocation of licenses, this is something that we want to most strongly urge for your favorable consideration. We are not arguing here that there are a large number of unethical pharmacists in the United States. In fact, it is quite the reverse. We have in the United States, registered under the Harrison Law, over 50,000 registrants in the pharmacy class. We have something more than 150,000 registered in the so-called practitioner class, that is, physicians, dentists, veterinarians, surgeons and osteopaths where they are permitted to register. Out of that, upwards of 200,000 registrants in one year, I think in 1930 we had about 111 convictions. We feel that that is a pretty good record for the medical and pharmaceutical professions. In fact, perhaps there is a shade of advantage there in favor of the pharmacist.

"The fact is, however, that when you do discover a man who is willing to prostitute his profession for the sake of making some gain of that kind, you find a man who is willing to go into it on a more or less wholesale scale. It seems rather ridiculous that such a man as that can be prosecuted and punished, and then when he comes out of the penitentiary immediately register and go right ahead with his same old business, and require the Government to go in there with that long, tedious period of investigation to try to stop him again. We feel that if a pharmacist, or physician, or any other registrant under the law has been guilty of a major violation of the law, he doesn't deserve to be licensed, and we feel that his license should be either suspended or revoked.

"That goes, perhaps in a more modified sense, for the physician or pharmacist who happens to be a narcotic drug addict. We feel that there at least his license should be suspended for a period, permitting him to take a cure, a bona fide cure, and rehabilitate himself, with the possibility of permanent loss of his license if he doesn't take advantage of that opportunity, or if he relapses. Possibly there will be quite a little objection to this among the professions, but from an enforcement standpoint we can't exactly see why there should be any objection.

"I could tell you, if I had the right, from the records from our office, the names of doctors, perhaps druggists, I don't know, who have been reported as many as five times as drug addicts. The agent goes in. There is a large shortage of morphine. After a little questioning the doctor usually says, 'I use it myself.' The agent says, 'Now, doctor, you know that isn't right. That is not proper. The best thing for you to do is to take a cure.' He is given an opportunity to go away and take a cure. If it is his first offense, generally he is dismissed with a letter of admonition after he submits evidence in the shape of affidavits from the sanitarium that he has become cured. That goes on for about a year or more and again the inspector goes in, and the same thing is gone through again. The doctor has again purchased large quantities of morphine and again has no records of them, and confesses he has relapsed, and he takes another cure. It is more or less of a continuous circle. It doesn't get us anywhere.

"We feel if they realize they will be given one chance, and in the event of relapse their license will be taken away from them, and they will have no right to use official order forms, that may make a great many of them consider for at least a longer period.

"That is what Section 16 provides. I would like to urge it most strongly for the consideration of you gentlemen because we believe that it is something that is necessary. I have a case in mind right now of a doctor who has been in the penitentiary once before. There are 3 convictions against him, and at the present time there is a case pending against him for prosecution again. The state board down there had taken under advisement the matter of his license and had revoked it. Then in May of the following year for some reason or other they restored it to him, just in time for him to be registered under the Harrison Law again for the next fiscal year, and he again did the same thing. He was again dispensing, of course to addicts, narcotics in large quantities. The inspectors got to work and have now assembled evidence of that additional dispensing, and he has either been indicted, or will be indicted, I expect, in the near future.

"The point is, why can't the state boards cooperate in this matter of persons about whom there can be no doubt of their bad faith in the profession? Should there be any objection to the revocation, for instance, of the license of that doctor whom I have mentioned? Certainly we

have been trying to get the reasons for restoring his license, and we haven't been able to do so. We do feel that, perhaps, on the next conviction we can make such a strong case before the state board they will permanently revoke his license.

"We get coöperation in a number of states I must admit. Florida stands out in my mind because they have revoked a number of licenses down there for improper dealing, particularly among the medical profession, in fact, I believe the medical profession almost exclusively. I don't know at this time of any bad persons among the pharmacists, but nevertheless we urge it as a general proposition all over the registration classes that the right should be there to license, and the right should be there upon proper cause shown for suspension or revocation of that license.

"I do not believe that you gentlemen are very much concerned with the matter of commitment of addicts for treatment. We take the position, of course, that all narcotic drug addicts should be required to take a treatment for the cure of their drug addiction, not only for withdrawal of the drug, but for a sufficient additional period to enable them to become rehabilitated with some chance of keeping away from it. That we feel is more properly a state function than a Federal function.

"Next is the matter of penalties. The first offense is a misdemeanor, and the second offense, leaving it, of course, largely to the judgment of the state, a felony. We thought that perhaps the first offense might also be made a felony with no minimum punishment specified, that in all but severe cases it might be left to the discretion of the courts as to whether they felt in some cases the severe penalty of imprisonment might not be imposed.

"The enforcement of the act is made the duty of, as perhaps I have already explained, the state boards of health, but only contingently. We put that in parenthesis, so that considerable latitude may be permitted there. If the state board of pharmacy is enforcing this law in a given state, and that is a public policy of that state, they can make it the state board of pharmacy. Our bureau has no preference. All we are anxious to see is that some qualified state board takes over the duty of enforcing the Act, and to coöperate with all other agencies charged with the enforcement of the Federal Narcotic Law. At the present time the Federal Narcotic Bureau is obligated under the Porter Act, June 14, 1930, to coöperate with the several state boards and state prosecuting officials, but there is no reciprocal obligation on the part of the state boards and state enforcement officers to coöperate with the Federal Bureau.

"I don't mean to say that we do not get coöperation. In a large number of states we do, and in some states, particularly Pennsylvania, we get most cordial coöperation. For instance, California gives us very cordial coöperation in the matter of joint enforcement. If I may use the word 'joint' advisedly, of the narcotic law. But we feel that it is proper to put that in this law so as to have the legal obligation there of all state agencies to coöperate with the Federal Government, because we feel that is the only way to solve the problem.

"We are doing that internationally now. Colonel Sharman has explained that we have the most cordial relations with his department. We have the most cordial relations with the British and with a number of other countries, and surely if it works out from an international standpoint it ought to work out very well within our own borders. We seek the coöperation of all the state boards at all times, and particularly the state officers."

H. T. Nugent, Field supervisor of the Federal Narcotics Bureau, Washington, D. C., emphasized an important phase of field work. He stated "there is relatively a small number of druggists who have any knowledge of our regulations. That may seem strange, but I base this statement upon my contact with the various inspectors whom we have out in the field—and ask the pharmacist if he knows about Regulation 5, which is our Bible, and he will say, 'Yes, in a general way.' If you ask to see his copy, you will find he hasn't any.

"We ask him if he knows that he is permitted to do this or that, but that he is not permitted to do something else, and he says, 'I didn't know.'

"In one city in the Mid-West about a year and a half ago we sent three inspectors around to find out to just what extent the druggists were familiar with these regulations, and I think they found 20 copies of Regulations 5 out of about 500 drug stores. So you can readily understand why so many technical violations are coming to light from time to time.

"Mr. Anslinger has adopted a policy which seems to be working out quite satisfactorily, and that is by intelligent coöperation with the professional classes. We believe that if we can secure the coöperation of the professional classes we will accomplish our objective, without hurting

anybody's feelings, without sending many people to jail, and that we will get along a whole lot better than if we undertook to go out and, as the field man sometimes terms it, black-jack them into line.

"So, in line with Mr. Anslinger's policy, we have been trying to carry on a campaign of educational work out in a field in every instance wherein an inspector goes into a drug store to check the records and finds some technical violation. The druggist is made acquainted with the provisions of the Harrison Act; he is advised of his duties under the regulations, and cautioned, in case the violation appears to be of a rather technical nature, against a repetition of it.

"Further, in line with Mr. Anslinger's policy, I might tell you that within 60 days after the creation of the Bureau of Narcotics and he assumed charge as Commissioner, he issued a letter of instructions to all narcotic agents in charge, now called 'district supervisors,' to the effect that no criminal investigation of any of the professional classes should be inaugurated unless upon written instructions from the agent in charge to the agent or inspector. A copy of that letter of instructions together with a memorandum of explanation, setting forth the reasons for the investigation, should be promptly transmitted to the Bureau. In that way he hoped to eliminate the complaint, and probably the justifiable complaint, on the part of some of the professional men against the desire of some of our field men to build up a good record at the expense of the professional classes, and made up probably of a lot of petty cases which we didn't feel should be called to the attention of the United States attorney, or even reported to the Bureau.

"In lines with his endeavors to bring about a better spirit of coöperation, he adopted that regulation, or put those instructions into effect, and we find now that the number of cases reported in professional classes has decreased materially. I mean by that: instead of getting a lot of petty cases, we are getting cases that have merit. We are getting cases that justify the attention of the United States attorney. We are not taking up our time with petty, technical violations out in the field, and we find very favorable response to our request from the professional classes for their coöperation.

"We believe that the pharmaceutical profession, the same as the medical profession, and the same as the legal profession, has its quota of undesirables. We have our quota of undesirable employees in the Federal Government. They are necessarily bound to exist everywhere, but we feel that with the aid of the professional classes, and particularly with the aid of the pharmaceutical profession, we can accomplish our objective and probably prevail upon the profession to clean its own house. We would much rather they would do it than to have the Federal Government step in and undertake to do so.

"We have an ample supply of regulations. It is no trouble to get a copy. When our inspector goes into a drug store and makes a check and finds any irregularities, the druggist is furnished a copy of the regulations, and the errors are pointed out. We don't feel there is any excuse, when the store is checked again, for mistakes to recur. Neither can we find any extenuating circumstance.

"Somebody has mentioned during this discussion this morning about the coöperation of states' attorneys and United States' attorneys in cases presented to them. Strange as it may seem, we have had a number of cases recently wherein fellow members of the profession have rushed to the rescue of a brother, and have brought a lot of pressure to bear on the United States attorney's office. We have had quite a bit of trouble getting the United States attorney to prosecute the cases because of political, social and fraternal aspects and other pressure that was brought to bear on them.

"We can accomplish a lot more if we can feel that the members of the professional classes will understand just what we are trying to do. We are trying to help them keep their profession above reproach, and at the same time to enforce our laws.

"So, if we can continue along as we have been doing, follow the policy adopted by Mr. Anslinger, and get a reasonable amount of coöperation from the pharmaceutical profession, our task is going to be much easier."

Chairman Swain appointed as members of the Committee on Nominations: *Chairman*, L. L. Walton, J. W. Gayle and George W. Mather.

The First Session of the Conference, on motion, duly seconded, was adjourned.

SECOND SESSION.

The Second Session of the fourth annual meeting of the Conference of Pharmaceutical Law Enforcement Officials was called to order by Chairman Swain with the following present:

Colonel Sharman, Canada; Secretary H. N. Linstead, England; Messrs. Fischelis, Holton, New Jersey; Hugo H. Schaefer, F. C. A. Schaefer, Dandreau, Lehman, New York; Walton, Cook, Smith, Pennsylvania; Edwards, Shkolnik, Illinois; Kradwell, Ruenzel, Wisconsin; Gayle, Kentucky; Bosley, Rhodes, Delaware; Allan, Michigan; Costello, North Dakota; Slocum, Iowa; Mr. and Mrs. W. Bruce Philip, Tennyson, District of Columbia; Clayton, Colorado; Eberle, Kelly, Swain, Rudy, Maryland; King, Kansas; King and Ford of Ohio.

Chairman Swain called upon **H. V. Smith** to address the Conference. The address follows, in part:

"We in Pennsylvania have felt for a long time that narcotic enforcement is a mighty big subject, and that it really is almost too big for a central government like the Federal Government of the United States, or the Dominion Government up here, to enforce alone. A central government is usually very busy trying to watch the illicit entry of narcotics into the country. They also watch the interstate traffic as well as the intrastate. Then, too, the central government must regulate the legal importation of narcotics. This is why we feel that the states have a joint responsibility, and should take steps to put their own house in order. It is a well-known fact that a drug addict is really a very sick person who cannot help himself, and some one must, therefore, help fight the battle for him.

"Narcotic addiction is also a pressing economic problem, because there isn't a narcotic addict, or a person connected with the whole illegal traffic, who is a useful or productive citizen; he is a financial liability to any government. In Pennsylvania, as in other states, correctional institutions and hospitals contain large numbers of them, and it is the taxpayers' money that pays for their upkeep. And so, if in our humanitarian work, we not only help cure them, and help protect those already addicted, but at the same time prevent others from becoming addicted, we are not only accomplishing a praiseworthy moral purpose, but lifting an economic burden from our taxpayers as well. The average addict and peddler are parasites whose expense to the government as non-producers and criminals cannot be justified.

"As early as 1865 Pennsylvania passed a law forbidding opium smoking. Pennsylvania narcotic laws have been built around this nucleus. Our main law went into effect in 1917, and was importantly amended in 1921. This act provides for the protection of public health by regulating the possession, control, dealing in, giving away, delivery, dispensing, prescribing, administering and use of certain drugs. It also provides for the revocation and suspension of licenses of physicians, dentists, veterinarians, pharmacists, druggists and registered nurses, as well as regulating the use of drugs in the treatment of the drug habit.

"In Pennsylvania the enforcement of this act was placed with the Health Department, and it is an important health measure. However, it doesn't make so much difference under what branch of government this work is done, so long as it is done. We do feel in Pennsylvania that narcotic enforcement is too important to be tied to some other activity, and so, in the Department of Health, there is a separate bureau, the Bureau of Narcotic Drug Control, which deals exclusively with narcotic enforcement.

Mr. Smith then explained the provisions of the Pennsylvania law and said:

"If pharmacists and druggists fully realized the importance of their monthly reports, and their value in protecting themselves as well as the citizens of the state, there would be no objection to the small amount of extra work they may make necessary. In all our activities in Pennsylvania we strive to maintain a friendly attitude. We never use a big stick, nor assume a dictatorial stand. There are certain legal registrations in Pennsylvania. These are classed as "Addicts with Disease," "Addicts with Incurable or Inoperable Disease," and "Addicts Aged and Infirm." Ordinarily the pharmacist need have no fear in filling a prescription bearing such a notation, and naturally, we do not prosecute such a case, unless, as occasionally happens, we find that the physician is wilfully evading the law by writing some fictitious diagnosis.

"The Bureau inspectors generally prosecute in state courts. However, we often work with federal narcotic agents, from whom we receive splendid coöperation, and in such cases prosecutions are generally instituted in Federal Courts."

The following quotations are taken from the address:

"It is surprising how many physicians do not seem to exactly understand what a legal narcotic prescription is."

"Often a druggist lets an incomplete or illegal one slip through."

"In addition to the filling of incomplete and illegal prescriptions, we also find druggists who sometimes only partially fill them, or take telephone orders for narcotics, thinking that later they will receive the prescriptions and be safe."

"An important provision of the Pennsylvania law is that the license of the pharmacist, or physician for that matter, can be revoked for violating the law. It is sometimes necessary that this be done. One of the revocable grounds is, if a pharmacist, druggist, physician, or any professional person, is an addict. The various other violations which I have already mentioned are also grounds for revocation or suspension. In Pennsylvania, in addition to any criminal action that may be taken by the state, or by the Federal Government, we can cite the violator to the State Board of Pharmacy, or whichever licensing board has jurisdiction. . . .

"In Pennsylvania possession, alone, is a violation if the person possessing the narcotic drug has not received it legitimately for his own personal use only, in good faith, and from a duly licensed practitioner, or in pursuance of a prescription given by a duly licensed practitioner.

"The Pennsylvania Act also provides that no person shall use, take or administer to his person, or cause to be administered to his person, or administer to any other person, or cause to be administered to any other person, any of these drugs except under the advice and direction, and with the consent of a regularly practising and duly licensed physician or dentist. So our regulations cover both possession and administration, and violation is a felony. That amendment was passed in 1931. . . .

"One of our most important activities in Pennsylvania might be said to separate the sheep from the goats. We have registered more than 17,000 medical addicts, or those legally entitled to receive narcotics. Many of these are suffering with incurable diseases like cancer and advanced tuberculosis, or are aged and infirm. Withdrawal of the drug would result in collapse and perhaps death. We must be lenient in such cases, but we do urge the attending physician to hold down the narcotic dosage to the very minimum necessary to give the patient a degree of comfort and sustain life.

"As a general rule our Narcotic Bureau has excellent coöperation from the pharmacists, physicians and other professional people of the state, who realize that they also have a tremendous responsibility. In Pennsylvania the Bureau inspectors are empowered by law to make arrests without warrant for any violation. They can pick up a violator on the street, they can go into a drug store or physician's office without a warrant, and they can arrest any person who has violated the law in any particular. . . .

"Some pharmacists and druggists do not seem to understand the state narcotic law with regard to corporations. There are corporations owning chains of drug stores. The Pennsylvania Act provides that if the violation is by a corporation, copartnership or association, the officers and directors of such corporation, or the members of such copartnership or association, their agents and employees, with guilty knowledge of the fact, shall be deemed guilty to the same extent as though said violations were committed by them personally. For their own protection corporations and others operating chains of drug stores should make certain that their employees fully understand the law."

(In closing Mr. Smith spoke in favor of uniform Antinarcotic laws.)

The addresses of Colonel Sharman, Messrs. Tennyson, Nugent and Smith were fully discussed, and special efforts made to bring out clearly the matters of greatest interest. These discussions were participated in by Messrs. George Mather, George Judisch, Dr. James C. Munch, E. F. Cook, Col. Sharman and others. The questions involved in the enforcement of a state narcotic act were considered, and many suggestions advanced for dealing with the drug addict. Special interest was manifested in the selection of the state enforcing agency. Some preference was expressed for the State Department of Health, but the majority seemed to favor the Board of Pharmacy, or a body specially created for the purpose. The definitions set out in the draft of the uniform state narcotic act were given studious attention so as to avoid any definitions inconsistent with those already in effect in the several states. The matter of exempt preparations was discussed at some length, as it was pointed out that the uniform state narcotic act imposes several

additional restrictions and seeks to limit their sale as to quantities, a principle which does not appear in the Harrison Act.

Robert P. Fischelis, being called on by Chairman R. L. Swain, briefly discussed new legislation enacted in New Jersey during the past year and the steps being taken for enforcement.

"Two new laws were placed on the statute books by our Legislature last year. One of them discontinued the licensing of assistant pharmacists, and the other one prohibits the use of the words, 'Drug,' 'Pharmacy,' and words of similar or like import by corporations or individuals who operate stores that are not operated under the supervision of a registered pharmacist. I want to call attention to the principal things in that first law; namely, that the Board is instructed to discontinue the licensing of assistant pharmacists after July 1, 1932. Of course, you cannot discontinue the licensing of assistant pharmacists and abrogate the rights of those who are at that time licensed to practice as such. Therefore, we naturally have a proviso in the new law which retains for assistant pharmacists now licensed all the rights and privileges accorded them under the Pharmacy Act at the time the new law became effective.

"Two years before this law was passed a group of assistant pharmacists had gone to the members of the Legislature and petitioned them to pass a law discontinuing the licensing of assistant pharmacists, but automatically making them registered pharmacists. We realized, of course, that unless we provided in some way for assistant pharmacists then on the record books of the Board to become licensed we would have this situation to confront every year, and that perhaps at some time or other there would be a political combination favorable to the group that was advocating automatic licensing of assistants.

"We know our neighbors in New York have some 2500 assistant pharmacists who are a constant source of trouble because they are continually bringing to the attention of the Legislature the fact that they were licensed at one time to do certain things and there is no reason why they shouldn't become fully licensed now. I must explain, too, that we have only 250 assistant pharmacists in good standing on our records; therefore, the problem is not as large with us as it would be in some states where there are thousands of assistant pharmacists.

"We provided in the new Act that any assistant pharmacist who was licensed prior to July 1, 1925, and who had been in continuous practice as an assistant pharmacist from the date of his registration as an assistant, could be given an examination to qualify him for full registration, within 2 years after the passage of the Act.

"You may wonder why we set that arbitrary date of July 1, 1925. The fact is that in July 1925, we began to require by law that assistant pharmacists have some college training. At that time one year, and later 2 years of college training were required, so that assistant pharmacists had to meet nearly the same requirements as registered pharmacists since that date. The experience requirement was 3 years, the college requirement 2 years. We felt that the College group did not need to be provided for, because if they had as much as 2 years of college training they would naturally continue and conclude their college course, and at the time they reached the age of 21 and had the 4 years of practical experience required, they would, no doubt, take the registered pharmacist examination. The group that was registered prior to July 1, 1925, with few exceptions had no college training.

"We found upon consulting our records that there were about 80 of those, and we felt, therefore, that if they could show that they had had continuous experience as assistants and met the other requirements as to citizenship, age, moral character and so forth, we could give them a special examination permitting them to qualify for full registration, and if they did qualify to forever get them off the books as assistants. If they did not qualify it could be demonstrated to the Legislature that they had been given their chance and had failed to make good.

"The important part of the second new law reads as follows: 'From and after the passage of this Act it shall be unlawful for any person, partnership or corporation to carry on, conduct or transact business under a name which contains as part thereof the word, "Pharmacist," "Apothecary," "Chemist Shop," "Druggist," "Drug" or any word or words of similar or like import, or in any manner by advertisement, circular, poster, sign or otherwise describe or refer to the place of business conducted by such person, partnership or corporation by the terms just enumerated unless the place of business so conducted is a drug store or pharmacy operated or managed at all times by a registered pharmacist.'

"We incorporated into this bill, which is a supplement to the Pharmacy Act and is, there-

fore, the latest expression of the Legislature on the subject, a form of procedure which eliminates trial by jury in cases of Pharmacy Law violations.

"This procedure is copied after our state medical and dental practice acts. This provision denying the right of trial by jury to the defendant has been attacked on various occasions in the courts, but has been upheld by the highest court in our state. Most of our cases are tried in the district court. From there they may go to the Common Pleas Court, if it is desired, or we may take an appeal on writ of certiorari, to the Supreme Court, and the decision of the Supreme Court may be carried to the Court of Errors and Appeals. This highest court in our State has upheld the denial of trial by jury in such cases as these.

"I would like to read a very short paragraph from the decision of the Court of Errors and Appeals in the case in which they upheld the denial of right of trial by jury in these matters, because it might be of interest to some of you. It was a case of the Board of Medical Examiners against some one who had been accused of practicing medicine without a license. It is known in the record as the case of the State Board of Medical Examiners *versus* Ferdinand Buettel, and after telling about the matters involved the Court says this:

"When the decision in the Curtis case was announced, apparently as a sequence thereto, the Act was again amended and this time that the Legislature intended that the proceedings should be before the court without a jury was made clear and specific by adding after the words 'summary manner' the words 'without a jury.' We, therefore, have a clear and unequivocal mandate from the Legislature that the proceedings shall be summary in character and by the court without the intervention of a jury.

"The conclusion we reach is that the Act under which the present proceeding was taken is a valid exercise of the legislative power, and that the Legislature clearly intended that the proceedings should be heard in summary manner without a jury. That the steps in the proceedings are not fully set forth, we think is not a ground upon which to nullify that purpose. Where in the Act they are left open it will be presumed that the course of procedure in the trial court was intended. This does not render the Act unconstitutional. The right of trial by jury is invoked according to the nature of the prohibited act and does not rest alone on the mode in which it is to be tried. It is the substance and not the form that must control in determining the right. The court in the present case sits solely by legislative mandate, and for the purposes of the trial is a statutory tribunal.

"So we have a very clearly established precedent for this procedure, and we think that it is going to help us greatly in future enforcement.

"That brings me to a very important question in the matter of law enforcement. Our experience is that just because one has the power to do certain things is not a good reason to exercise that power to the limit immediately and at all times. In working with the Legislature of our state we have naturally come to hear all of the various complaints that are made by persons who at one time or another violate the law, and persons who oppose restrictions of any kind with reference to the sale of drugs, and naturally we have tried to meet the arguments that have been advanced.

"One of the stock arguments has been that the dealer was not notified and did not know anything about the illegality of the sale of certain remedies. No matter what the remedy was, he never knew it was one of the things that could not be sold. We do not have in our law a schedule of drugs and medicines to be sold by general merchants. We have the poison schedule, but no schedule of simple remedies. Our law simply states that no one who is not a registered pharmacist shall sell any drugs, medicines or poisons, with the exception of non-poisonous, patent or proprietary medicines, and there is a proviso that nothing in the Act shall interfere with the sale of simple non-poisonous domestic remedies by retail dealers in rural districts.

"We have been accused, of course, of favoring pharmacists in our enforcement procedures in addition to not notifying merchants. Not having any licensing provision for merchants in our law, it was, of course, impossible for us to know where the stores are that sell drugs and how many there are. We had endeavored to obtain that information from various critics of our law enforcement procedure. We endeavored to obtain it particularly from those manufacturers who sell these simple drugs in our various counties and who have been the most vociferous in their objections to any kind of legislation governing the sale of drugs and medicines but, of course, they did not offer such a list although we gave them the opportunity to do so.

"Having failed to obtain lists of the merchants selling drugs from those who could have supplied them, we set out on a program two years ago to discover just what stores were selling drugs, how many there were, and what drugs they were selling. We employed an inspector to do nothing else but ride up one road and down another in each county, county by county, taking the names and addresses of these stores, and going into the stores and getting an inventory of their patent medicines, and other drugs and medicines that were being sold. That was quite an undertaking, but it is completed for 18 counties. Something like 6000 stores were visited in those counties, and something like 3000 were found to have some drugs or medicine on their shelves. We have a list of those drugs, and we have tabulated them. The work is not entirely finished. Three counties remain to be surveyed, but the list we have so far is quite illuminating.

"It was found that there were, of course, a certain few remedies that were sold to a large extent by all stores, and then there was a scattering of remedies of various kinds, ranging from the simplest things to the most complex products including proprietary products of some of our large manufacturing houses which one would hardly expect to find in surroundings such as these rural stores. Proper use will be made of that information.

"The next thing we did was to get out a circular of information. I have a few of them here for distribution. It is headed, 'Important Notice to Merchants. Do not display drug signs,' and the first paragraph or two relate entirely to this new law with reference to the display of drug signs, and shows that we have given them since April 28, 1932, when the law became effective, up to July, to remove signs and that we are now going to begin to prosecute. Then we have outlined below the requirements with reference to the sale of drugs and medicines. The heading over that is, 'Do not sell drugs, medicines or poisons except as noted below unless you employ a registered pharmacist.' We cover four points: The sale of non-poisonous patent medicines, the sale of agricultural poisons which, of course, is permitted, the sale of flavoring extracts and the sale in rural districts, that is by stores in rural districts, of simple non-poisonous domestic remedies.

"The next step in the circular is to inform the merchants that they should not depend for their information, on the provision of the pharmacy law, upon salesmen of manufacturing houses and that we are very glad to supply the information if they will ask for it. This circular had not been out more than two or three days when we were deluged with mail from various merchants, sending in lists of drugs they had and asking us to check off what they could sell and remain within the law.

"Another thing we have done is to send every member of the State Legislature a copy of this circular, with a letter informing the senator and the assemblyman that we are now enforcing this law which they passed at the last session; that we have given the dealers full information regarding it; that we have waited several months before beginning the enforcement with reference to the display of drug signs; that there is now no longer any excuse on the part of the dealer for ignorance of the law.

"One further point I want to call to your attention, is the decision of the Supreme Court recently in the case we brought against a dealer for selling Sweet Spirit of Nitre. It was one of those cases where we had a jury trial, and the district court refused to direct a verdict, although we had more expert testimony at that particular trial than we ever had anywhere before. The experts clearly established that Sweet Spirit of Nitre and Essence of Peppermint are medicines within the meaning of the Pharmacy Act and therefore can be sold only under the supervision of a registered pharmacist. However, the District Court Judge said that it was not for him to decide whether these articles were medicines on the basis of the evidence submitted, and the jury decided that the defendant was not guilty. The case was taken to the Supreme Court and after a year the Supreme Court decided, on the basis of the testimony submitted, there was no doubt these substances were medicines and that the judge should have directed a verdict for the Board, and a new trial was ordered. When it came time for the new trial the defendant pleaded guilty and that settled the case."

Dr. Fischelis' address raised a number of interesting questions, and was discussed at some length. As these discussions deal with the very essence of law enforcement, it is presented in full.

A. H. King stated that Kansas has a law similar to that of New Jersey and like conditions obtain. Kansas license fee is \$2.50. He cited a case involving 8 persons, which was defeated in the lower court; carried to the Supreme Court and sent back for rehearing; the defendants then

plead guilty. He also referred to an extreme case where sale was made of corrosive sublimate, wrapped in paper along with packages of meat and groceries.

Dr. Fischelis said that license was not an unmixed blessing; the one licensed may use it to advantage in magnifying his grant under the license. He said Connecticut has a license system, the items that may be sold are named and displayed with the certificate. H. C. Ruenzel asked about the definition "rural areas." Dr. Fischelis answered—that in New Jersey it signifies an unincorporated village, a place of less than 1000 inhabitants.

A. H. King said that when the license system was started in Kansas more than 2500 dealers were selling remedies with fewer than 400 licensed dealers; now there are fewer than 2000 dealers handling remedies and the number of items that can be sold are considerably less and the public is better protected.

Secretary E. F. Kelly expressed appreciation of the AMERICAN PHARMACEUTICAL ASSOCIATION for the good work of the Conference. He hoped it would continue to grow and prosper.

Secretary H. N. Linstead referred to a statement by Dr. Fischelis relative to the possibility of the dealers using the license to make the public believe they have qualifications which they don't possess. In England dealers are given no certificate, but their names are made of record. He asked relative to the meaning of "proprietary medicine."

Dr. Fischelis replied that the difficulty is overcome by the definition for the word "medicine;" the term "drug" is defined in the Food and Drugs Act. The manufacturer must prove his preparation to be a proprietary, "not a medicine or drug within the meaning of the Act." J. W. Gayle inquired whether the one licensed in Kansas receives a list of articles he may sell. Mr. King replied that no list was given them; they are permitted to sell non-poisonous proprietary and non-poisonous domestic remedies in original packages.

Chairman R. L. Swain said that "the distinction between patent and proprietary products constituted one of the most difficult problems in law enforcement. . . . The so-called exemptions clause, almost without exception states that the law shall not apply to the sale and distribution of patent and proprietary remedies. They may use the word 'medicine,' but the words 'patent and proprietary' are almost always used together. He remarked that 'if it were not for the fact that this grouping goes back a great many years, you might look upon it as an exceedingly clever piece of phraseology on the part of those who really wanted to make the exemption clause in every sense of the word an exemption clause, but it goes back so far as almost to create the impression in your mind they are synonymous terms. In the development of ethical proprietaries, which we know a great many potent preparations are, it seems to me we have in exemption clauses an idea which could come very near nullifying a great deal of the pharmacy acts.' "

Chairman Swain stated that "the Committee on Proprietary Medicines, of the AMERICAN PHARMACEUTICAL ASSOCIATION, has done some very effective work in this field over a period of a number of years. As an enforcement official, however, I believe that the subject has become of greater importance in the last two or three years, and that this whole subject of patent and proprietary terminology should be re-studied. . . . A patent medicine, it has been said by eminent counsel, is not a patented medicine. It is simply a terminology, or designation, which refers rather generally, so far as public acceptance is concerned, to certain classes of medicinal preparations. They are usually those which are sold under specific names, some coined names, with directions for their use, the contents of which are kept secret, freely advertised and more or less freely distributed. . . ."

His own individual reaction is, if it can be shown an article is proprietary in the sense that it is owned by somebody, and its manufacture is controlled by some individuals; he was of the opinion that under that designation the very widest variety of medicinal proprietaries can be sold without any legal hindrance. He had been working on it for some months, but the more thoroughly he investigated the subject, the more thoroughly he was satisfied that this language is ambiguous and he would like to see some effort made to distinguish very clearly between patent medicine and proprietary medicine. In the report of the A. PH. A. there is a distinction made between the ordinary proprietary "patent" and the ethical proprietary. This is a very valid distinction, but it is a distinction which does not find any recognition in the state laws. He mentioned it because in his opinion no great success is going to attend our efforts in controlling the situation until it is understood what is meant by "patent" and "proprietary."

A review of the Operation of the Pennsylvania Pharmacy Law in 1931 by John M. Woodside was presented and read by L. L. Walton.

"The Pharmacy Law of Pennsylvania was amended by the Legislature in 1931. The amendment, referred to as Act No. 228, became effective on June 22, 1931, the date of approval.

"Because of the scope of the amendment and because so many unregistered dealers were affected by its provisions, the field agents were instructed to concentrate their attention mainly upon its enforcement.

"A review, then, of the operation of the Pharmacy Law in Pennsylvania in 1931, is virtually an account of the conditions which the field agents found and the difficulties which the Board encountered in its endeavor to compel compliance with the amendment.

"With the exception of the clause which requires that all drugs and proprietary remedies be put up under qualified supervision, this Act does not affect the conduct of pharmacies. It prohibits the sale, by unregistered dealers, of several classes of drugs and all preparations in which the drugs are an ingredient."

The conditions under which drugs, medicines and poisons may be sold at retail in Pennsylvania, are prescribed in Section 13 of the Pharmacy Law and it is this section which Act No. 228 specifically amends.

The following quotation from Act No. 228, is the amendment in its entirety:

"... nor prevent storekeepers from dealing in and selling commonly used household drugs or proprietary medicines when the same are offered for sale or sold in original packages, *except when administered in single doses on the premises*, which have been put up ready for sale to consumers by pharmacists, manufacturing pharmacists, *manufactures of proprietary medicines*, wholesale grocers or wholesale druggists, *under qualified supervision: Provided, however, that the proprietary medicines or household drugs sold or offered for sale shall not contain any opium, coca leaves, chloral, or any of the salts derivatives or compounds thereof in and quantity whatsoever: Provided, also, that remedial agencies that are administered hypodermically, intramuscularly or intravenously, and all medicinal substances containing barbituric acid or its compounds, and biologicals (except those biologicals distributed to State and county health officers), and medicines containing substances of glandular origin (except intestinal enzymes), shall be sold only by registered pharmacists or assistant pharmacists employed by or conducting a registered pharmacy.* Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00), or imprisonment for not more than one year, or either or both, in the discretion of the court."

This paper was discussed by Messrs. M. N. Ford, F. H. King, E. F. Cook, R. P. Fischelis and others. The Pennsylvania law is of great interest as it has some restrictive provisions not usually met with. For instance, the sale of preparations containing opium in any quantity is confined to pharmacists, and this is true of preparations of glandular origin.

(It is hoped later to publish the discussion by Mr. Woodside; in the meantime those desiring to read it can obtain a typed copy by addressing the JOURNAL A. PH. A., 10 W. Chase St., Baltimore.)

J. E. Edwards, Chief Inspector, Illinois Department of Registration and Education, Chicago, Illinois, addressed the Conference on the "Enforcement of the Illinois Pharmacy Act; in part, as follows:

"The Illinois Department of Registration and Education holds examinations to qualify seventeen different trades and professions to practice in the State of Illinois, they are divided into two classes: Public Welfare and Public Health. The particular division I am connected with is the Complaint Division, which investigates any one said to be practicing without a license, also to investigate those who hold a license who do not conform to the provisions of the law. The main office of The Department of Registration is located in Springfield, Illinois, the capital. The Complaint Division which is a branch office, is located in Chicago.

"The Pharmacy law is one of the seventeen branches of the law which comes under this Department's jurisdiction.

"Two of the points I wish to bring out at this meeting on law enforcement are, the Criminal Prosecutions and the need for a Revocation Clause in the Pharmacy Act.

"The Honorable M. F. Walsh, Director of the Department of Registration, after carefully

studying the procedure of the Complaint Division, decided that it was not functioning properly and made various changes, which have proven beyond a doubt that it does not always pay to arrest a man at the slightest provocation. Mr. Walsh laid out a new policy for the Complaint Division which I will try and explain to you: . . .

"We checked with all the Inspectors and got their reports of the attitude of the different State's Attorneys and Judges throughout the State, and in Chicago a personal investigation was made by myself. We found the Court Dockets full of our cases and the Judges and State's Attorneys kicking because this Department was bringing in minor violations and were allowing the alleged violators to go on the promise that they would not violate again. This was breaking down our whole law enforcement, as the violators would go right back to work and hold our laws in contempt.

"To take care of a situation of this kind we had to build up a new respect for the Department. To-day we do not go into court unless we are quite sure that we will get a conviction, and only then on cases that warrant a prosecution, or on minor cases where the violator refuses to quit violating the law. To-day our convictions run over 90% and our enforcing problem is much easier with the system now used.

"We have what we call an affidavit or 'Gentlemen's Agreement,' which reads as follows: I the undersigned, hereby admit that I do not hold a certificate of registration as a _____, and that I have violated the law pertaining to same. The Inspector has explained the law to me, and I do hereby agree if given the opportunity, that I will not do any more work at said profession in the State of Illinois, at any time, in the future unless I obtain a certificate of registration for the practice of said profession issued by the Department of Registration and Education of the State of Illinois. . . .

"Arresting a man does not correct a violation; talk to him and explain the law to him and tell him he will be arrested if he violates again, and it is the fear of that arrest that stops the violating. If you arrest him first the fear is gone and he immediately creates a hatred.

"The only violations where a warrant is taken out is major violations on which we receive a great amount of publicity when we win our case, this also puts fear into the minor violators. . . .

"The other point I wish to take up is the revocation clause, which is lacking in the Illinois Pharmacy Act.

"The laws which come under our jurisdiction are made to protect the public, and the public has very little respect for any law that allows a man, because he holds a license, to do as he pleases. . .

"Recently we prosecuted one of the biggest cancer quacks ever prosecuted in Illinois. We found connected with him, or doing what you would call 'fronting' for him, six doctors who were allowing their names to be used as a cover-up. These doctors were cited before our Medical Committee to show reasons why their licenses should not be revoked. Some of them were revoked outright and the balance were suspended for a period of one year.

"In our Pharmacy law it states that after a certain date no one will be allowed to own a drug store unless he is a registered pharmacist, in the same section in another paragraph it says, a corporation may open a pharmacy if all the officers are registered pharmacists. To get around this law a man who wants to open a drug store and is not a registered pharmacist, will call upon two or three registered pharmacists to incorporate under their names, these registered pharmacists having no interest whatsoever in the business, and these are the type of drug stores which cause a lot of trouble and have no respect for the Pharmacy Law.

"If the Pharmacy Law had the same revocation clause in Illinois as the Medical Practice Act, the licensed pharmacists loaning their names to the unlicensed drug store owners, would be revoked or suspended for loaning one's name to another in the illegal ownership of a drug store."

W. Bruce Philip presented a paper regarding the recent California case upholding the pharmacy act; a partial report follows. The paper was prepared by John Culley of San Francisco, who was the chief witness for the State and, practically, carried the burden of the prosecution. This case was tried in March of 1932, and was an aftermath of a case *ex parte* Gray, tried two or three years ago and carried to the Supreme Court of California, and the pharmacy law was upheld. Mr. Philip referred to the Arizona case that was not favorable to the Arizona state law. . . .

He explained that California has a lower court, a justice or police court, then the next step is the Superior Court; neither the lower nor the Superior Court are courts of record. Then

there is the Court of Appeals and the Supreme Court, which are courts of record. This case only went to the Superior Court and will not be appealed.

Mr. Philip stressed the importance of the proper preparation of a case and remarked that the grocers lost their case through faulty preparation. The suit under discussion was called "The Scott and Gilbert Injunction against the California State Board of Pharmacy." The California law is so written that a merchant, within 3 miles from a drug store, may obtain a license and sell a prescribed list of drugs. Scott and Gilbert sell almost exclusively to these general merchants holding special licenses from the Board of Pharmacy. They sell their merchandise to dealers within the 3-mile zone, so there were conflicts. When Scott and Gilbert were told about a certain store, they immediately removed the stock, but probably, the next week the same merchandise is found in some other store. These conflicts led to an injunction by Scott and Gilbert against the California State Board of Pharmacy. Their complaint listed some 60-odd drugs and medicines, proprietary articles, etc., that had been stopped by the State Board of Pharmacy inspectors, and which they wished to continue selling to their customers. A temporary injunction was issued by Superior Judge Harris, and the case was then transferred for trial to the Superior Court of Judge Goodell.

Mr. Philip named some of the drugs and preparations included in the list under question; among them, S. & G. branded articles, zinc oxide plasters, cardamom seeds, saltpeter, cod liver oil, hydrogen peroxide, S. and G. belladonna plasters, a trade-marked brand of cascara tablets, etc.

These grocers were of the opinion that taking a preparation, admittedly a drug, and adding a trade-marked name will bring it into line as a proprietary medicine.

Mr. Philip said this case settled on two of these items, zinc oxide plaster and cod liver oil. Scott and Gilbert had a physician testify that zinc oxide plaster was merely a mechanical appliance without any medicinal properties; that cardamom was a flavor with no medicinal qualities; cod liver oil merely a food without any medical properties; hydrogen peroxide, a toilet article without medicinal value; that "S and G" before the name of preparations were trade-marked preparations and, therefore, "proprietary" remedies, and could be sold by any person.

He explained the State Board of Pharmacy's contention that under the Pharmacy Law the drugs in the list are all official drugs and medicines of the U. S. P. and so recognized by the Food and Drugs Act and, therefore, cannot be sold to the public except by and through a registered pharmacist. The State Board of Pharmacy also held that of the S. & G. preparations none are proprietary remedies under the law; none of them can be copyrighted or patented, as the formulas are not secret; the formulas, or modifications of them, are all official in the U. S. P. or the N. F.; that any pharmacist can prepare or duplicate them; Scott & Gilbert did not originate any part of the formula and, in fact, did not even manufacture some of them. Mr. Philip stated that in cases of this kind, attorneys were selected who had legislative or judicial experience, which would enable them to be of service in framing new legislation or amendments. He also referred to the legal force in behalf of the Board of Pharmacy. The hearing extended over a period of three weeks.

The points in the case were then explained by Mr. Philip: The first witness for Scott & Gilbert was a dealer in cod liver oil for animal food, who was of the opinion that the oil was a food, without other medicinal value. Books were brought into the records, also the testimony of an authority on dietetics, and an article of the *Saturday Evening Post*, which was not accepted as scientific evidence. A physician testified that zinc oxide plasters were mechanical appliances without medicinal value.

Mr. Culley's experience as quiz-master came in good place in explaining the facts to the judge. The first steps of the presentation were to establish the qualifications of the witness. Mr. Culley gave a history of the drugs and enlarged on their medicinal value; he explained that this quality was not removed because of other uses for the drug and, as medicines, their sale must be protected. Cod liver oil became the real issue—the food value was admitted and the importance of vitamins stressed, so that compliance with standards was mandatory. The value of medicinal plasters was explained, also of the other items made of record and the insufficiency of the trade-mark as establishing "proprietary" right in the formula was disproven. The AMERICAN PHARMACEUTICAL ASSOCIATION's definition of "proprietary" remedy, was brought into the evidence. The grocers' attorney placed in evidence the statement of the U. S. P. on the application of the monographs

on to the use of the substances included for medicinal purposes. The judge, however, held that this did not take away their value for other than medicinal purposes. The attorneys for the grocers read an article when the case was argued in which commonly used items were described by references to their places in the U. S. P.—a line will explain the effort in ridicule: “washed in U. S. P. water (page 55) with U. S. P. soap (page 326). Had a dish of prunes (N. F., 381), etc.,” Mr. Philip was of the opinion that this effort did not help the case of S. & G.

The judge rendered a decision in favor of the Board. Mr. Philip stated that, as a result, the Retail Druggists' Association and the Retail Grocers' Association have been brought together in a purpose to come to an understanding as to sales of drugs in grocery stores.

As shown in the report this address was discussed by Messrs. A. H. King, R. P. Fischelis, L. L. Walton, R. L. Swain and others. The importance of preparing cases as completely as possible in advance of trial was emphasized. All expert testimony should be understood and gone over before actually submitted in court, whenever this can be done. It was pointed out that when the nature of a product is to be established, it is advisable for boards of pharmacy to rely upon medical testimony. Medical opinion is usually more acceptable, and pharmacists are relieved of the implication that their testimony is biased.

Chairman E. Fullerton Cook, U. S. P. XI Committee of Revision, presented a paper on “The Pharmacopœia as an Aid in Law Enforcement.” References are made at this time to parts of the paper and concluded with a summary by Chairman R. L. Swain:

“The use of pharmacopœial standards of strength and purity as an aid in the enforcement of drug legislation is but one of the services which the Pharmacopœia renders and, only within recent years, has it assumed importance.

“The U. S. Pharmacopœia was established by the medical profession early in the nineteenth century for the purpose, to quote the first Preface, ‘of selecting from among substances which possess medicinal power those, the utility of which is most fully established and best understood; and to form from them preparations and compositions, in which their powers may be exerted to the greatest advantage. It should likewise distinguish those articles by convenient and definite names, such as may prevent trouble and uncertainty in the intercourse of physicians and apothecaries.’

“However, the 1820 Committee also stated that ‘Its usefulness depends upon the sanction it receives from the medical community and the public; and the extent to which it governs the language and practice of those for whose use it is intended.’ And thus there was immediate recognition of the element of enforcement, although actual legal support for its standards was deferred for almost a century”

(Chairman Cook then discussed the legal phases of the Pharmacopœia, and its relation to the Food and Drugs Acts. He also discussed synonyms in legal relations and made references to the prefaces on the subject in preceding editions of the Pharmacopœia.) In referring to the work of the Conference, he said:

“An organization of Law Enforcement Officials operating honestly in the line of duty frequently discovers defects in the legislation under which they function. As their attention is properly concentrated upon enforcement and, where necessary, upon prosecution, they also discover defects in the Pharmacopœia and it is proper and a duty to bring these to the attention of the legislatures and the Committee of Revision. In these respects this Association can render a service of great social value to the Nation and what they have already done in this line is accepted with appreciation.”

Concluding his discussion on “Standards and Assays,” he said:

“One feature of the U. S. P. policy which is deserving of emphasis is the importance of exact details in tests and assays. This principle was discussed at length in the recent conferences on vitamin standards for Cod Liver Oil. The International Vitamin Conference adopted standards for vitamins A and D, to be used as a basis of comparison but made no recommendation for the procedure in assay. The new British Pharmacopœia has accepted a similar principle for some of its biologic assays, for instance, Digitalis leaf is to be compared with the internationally adopted Powdered Digitalis, but the frog, cat or guinea-pig methods of assay may be used. In the enforcement of the Food and Drug Acts, all officials have learned the importance of exact details in tests and assays so that loopholes are eliminated as far as possible. This principle has constantly been in mind in pharmacopœial revision and if court experience has demonstrated defects in this

respect in any of the present texts or assays, attention should be called to them that they may be corrected.

"The present revision is fortunate in having the critical review of all proposed texts by officials of the Food and Drug Administration at Washington, and the new Pharmacopœia should be more efficient as an aid to law enforcement than any of its predecessors. It is also increasingly important that U. S. P. standards and methods should be right, for the Food and Drug Administration officials at Washington have announced that they shall more rigidly enforce official standards in the future than has been possible in the past and that, under the law, they must accept the standards set by the authorities since the law gives them no discretion.

"This warning should stimulate the interest of every one affected by U. S. P. regulation and ample opportunity will be given those who are interested, to offer suggestions or criticisms of the proposed new texts, through the extensive publicity program undertaken by the Committee of Revision and approved by the Pharmacopœial Convention.

"Those who are interested in any specific texts should communicate with the General Chairman."

Dr. Cook's paper was discussed by Dr. R. P. Fischelis at some length. The points brought out were that there is a direct relation between pharmacopœial revision and law enforcement. It was suggested that official products, such as the various drugs that are used as foods and those that are used as spices and condiments might be designated as "medicinal." This would emphasize the medicinal use of such products, and might be effective in certain phases of law enforcement. If this is not feasible or desirable, it was suggested that such products as lard, water, cinnamon, clove and others might be set out in one portion of the U. S. P. and thus not included in the regular alphabetical arrangement. The Committee on Revision was urged to give greater recognition to synonyms. An article is frequently purchased under a name different from that officially recognized, and this imposes upon the prosecution, in the event of trial, the necessity of proving that the article purchased is the article recognized in the U. S. P. under a different name.

The report of the Committee on Nominations presented the following for officers of the ensuing year: *Chairman*, Robert L. Swain, Maryland; *Secretary-Treasurer*, M. N. Ford, Ohio; *Delegate to the House of Delegates*, George Mather, New York.

L. L. Walton, acting as chairman, entertained a motion to accept the report of the Committee on Nominations. The motion was unanimously carried by vote.

Secretary-Treasurer M. N. Ford presented the following report:

The following states were members of the Conference, 1932: Alabama, Ohio, Michigan, West Virginia, Connecticut, Colorado, Illinois, Pennsylvania, New Jersey, Oregon, Utah, North Dakota, Indiana, Kentucky, Florida, Iowa, Maryland, Arkansas, New York, Kansas, Mississippi, Wisconsin, South Dakota, Maine, Delaware, Tennessee, South Carolina, Idaho, Minnesota, Wyoming, New Mexico, Dist. of Columbia, North Carolina, Virginia, Massachusetts.

Balance of Cash on Hand at Close of Last Annual Meeting \$166.38

Disbursements:

December 12, 1931, for Letter Heads	\$ 9.20	
March 16, 1932, for Reprints and Publication.....	77.72	
May 3, 1932, Smith Signs Company.....	4.40	
May 3, 1932, Dr. R. P. Fischelis, Postage.....	5.12	
June 30, 1932, Dr. R. P. Fischelis, Postage.....	1.00	97.44

Balance..... \$ 68.94

Receipts:

From 35 States from February 29 to August 10, 1932, at Five Dollars Each, as Contributions to the Conference.....	\$175.00	
Total on Hand.....		\$243.94

On motion of G. V. Kradwell, seconded by P. H. Costello, and a vote, the report of the Secretary-Treasurer was approved.

On motion of R. P. Fischelis, seconded by Charles Clayton, the following resolutions were adopted and ordered sent to the House of Delegates, A. PH. A.

WHEREAS, serious study is being given to the need for further control of narcotic drugs and to the enactment of a uniform state narcotic act; and

WHEREAS, the objective and purpose of this movement is to more adequately control and regulate the use and distribution of narcotic drugs, and

WHEREAS, the use and distribution of narcotic drugs is restricted to legitimate medical needs; therefore, be it

Resolved, by the Conference of Pharmaceutical Law Enforcement Officials that the uniform state narcotic act be written so as to restrict the retail sale and distribution of narcotic drugs and medicines containing any amount whatsoever of narcotic drugs to duly registered pharmacists in their respective states, so that the intent and purpose of the law may be achieved.

Upon motion duly seconded, the Conference adjourned.

R. L. SWAIN, *Chairman*.

M. N. FORD, *Secretary*.

(It seemed to be necessary to condense and abstract some of the reports and addresses. Should any member desire a more complete report of any of the parts of the foregoing the Editor, with coöperation of Chairman Robert L. Swain, will endeavor to comply with such requests.—*The Editor*.)

CORRESPONDENCE.

We are in receipt of the following request from Prof. Frederick Grill:

Note to the Editor.—In the article by Frederick Grill, "Suggested Reasons for Color Changes in Prescriptions Containing Salicylates" (JOUR. A. PH. A., 21 (1932), 765), references to two previous articles were omitted, one by John C. Krantz, Jr., and the other by John C. Krantz, Jr., and C. Jelleff Carr.

John C. Krantz, Jr.—JOURNAL A. PH. A., 17 (1928), 1203—accounted for the darkening of a solution containing sodium salicylate and sodium bicarbonate on the basis of oxidation, especially the ortho hydroxy benzoic acid derivatives. John C. Krantz, Jr., and C. Jelleff Carr—JOURNAL A. PH. A., 18 (1929), 1250—showed that pure sodium salicylate with sodium bicarbonate in solution darkened in color, indicating that impurities, such as iron, were not wholly responsible for the color change.

(Signed) FREDERICK GRILL.

George M. Karns requests that the following corrections be inserted in the appropriate place in "Behavior of Iodine Solutions at Liquid, Solid Interfaces. I. The Wetting Power of Iodine from Various Antiseptic Solutions"—21 (1932), 780.

Correction:

Fig. No. 1. Curve for 1% Iodine.

At 0% excess potassium iodide, the iodine

adsorbed per gram of silk should be 200 mg. rather than 160 mg.

Fig. No. 2. Curve for 7½% Iodine.

At 0% alcohol, the iodine adsorbed per gram of silk should be 515 mg. rather than 490 mg.

(Signed) GEO. M. KARNS.

Dr. George D. Beal has favored the JOURNAL with a reprint of an article entitled "Studies of the Cause and Nature of Dental Caries." This is a report upon the nine years' investigation of this subject undertaken at Mellon Institute, the last six of which have been under his executive direction. This is probably the first investigation in this field in which the facilities of a strong chemical laboratory have been coupled with those of an equally strong faculty of dentistry, having available at the same time a wealth of clinical material. The article is reprinted from the *Journal of Dental Research* for October.

The Mexican Department of Health has received, since 1927, 30,000 applications for the licensing of domestic and foreign medicinal products. Of this total 6000 applications are still pending, and the department, according to information received by the Department of Commerce from the commercial attaché at Mexico City, has undertaken to clean up these cases and to expedite the handling of new applications. The plans call for action with respect to new products within twenty days from the date of the application.