

the pharmacist prepares himself to take advantage of them and to discharge the duties therein involved.

What constructive public health work could be carried on and what beneficial results might be accomplished if this trained group of American pharmacists could be enrolled in the army of public health workers for service during the duration of this and all other future wars which may be waged on preventable communicable diseases; and, if all pharmacies could become outposts or health observation towers as well as auxiliary forts available for the use of all the forces engaged in the warfare on disease.

THE STATUS OF EXEMPT NARCOTICS UNDER THE UNIFORM STATE NARCOTIC ACT.\*

BY ROBERT L. SWAIN.

The Uniform State Narcotic Act, the purpose of which is to supplement the activities of the Federal Bureau of Narcotics, has been passed in the following States:

Alabama	1935	Montana	1937
Arizona	1935	Nebraska	1935
Arkansas	1937	Nevada	1933
Colorado	1935	New Jersey	1933
Connecticut	1935	New Mexico	1935
Delaware	1935	New York	1933
Florida	1933	North Carolina	1935
Georgia	1935	Ohio	1935
Idaho	1937	Oklahoma	1935
Iowa	1937	Oregon	1935
Illinois	1935	Rhode Island	1934
Indiana	1935	South Carolina	1934
Kentucky	1934	South Dakota	1935
Louisiana	1934	Utah	1935
Maryland	1935	Virginia	1934
Minnesota	1937	West Virginia	1935
Mississippi	1936	Wisconsin	1936
	Wyoming		1937

The Uniform State Narcotic Act was the subject of several years' study by the Commissioners on Uniform State Laws, and as many as five separate drafts were made and subjected to extended study. The fifth draft was the one submitted to the American Bar Association at its meeting in Washington in 1932, and was officially approved by that body. The bill, as approved, was submitted to the legislatures of the various states in the following year.

As the name of the act indicates, its purpose was to make uniform the law in the various states with respect to controlling the sale and use of narcotic drugs. While it may be said that, in general, the state acts are uniform, they do differ in some important particulars. For instance, some state acts do not include Cannabis in the list of narcotic drugs. The penalty provision is different in some cases, and the agency charged with the enforcement of the State law differs in various states.

\* Section on Education and Legislation, A. PH. A., New York meeting, 1937.

It already appears that the definition of the term "Cannabis" is no longer adequate. In the uniform act, as originally adopted, Cannabis is defined as follows:

"Cannabis" includes the following substances under whatever names they may be designated: (a) The dried flowering or fruiting tops of the pistillate plant *Cannabis Sativa L.*, from which the resin has not been extracted; (b) the resin extracted from such tops, and (c) every compound, manufacture, salt, derivative, mixture or preparation of such resin, or of such tops from which the resin has not been extracted.

At the instigation of the Federal Bureau of Narcotics, the Maryland Uniform State Narcotic Act was amended in 1937, so as to provide the following definition for the term "Cannabis:"

The term "Cannabis" as used in this Act shall include all parts of the plant *Cannabis Sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin; but shall not include the non-resinous oil obtained from such seed, nor the mature stalks of such plant, nor any product or manufacture of such stalks, except the resin extracted therefrom, and any compound, manufacture, salt, derivative, mixture or preparation of such resin.

Even this definition differs from that in H. R. 6906, passed by Congress on July 28, 1937, which reads as follows:

The term "marihuana" means all parts of the plant *Cannabis Sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom) fiber oil or cake, or the sterilized seed of such plant which is incapable of germination.

It was evidently the intention of the Uniform State Narcotic Act to give exempt narcotics a different status than is the case under the Federal Narcotic Act. It was the evident purpose of the Harrison Act to totally exclude exempt narcotics from its provisions. Section 6 of the federal act states "that the provisions of this act shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing or possession of preparations and remedies which contain narcotic drugs not in excess of the exempt proportions."

Of course, the federal act seeks to exert some semblance of regulation and control over exempt preparations, because it is specifically provided in the act itself "that such remedies and preparations are manufactured, sold, distributed, given away, dispensed or possessed as medicines, and not for the purpose of evading the intentions and provisions" of the act. However, in order to maintain the revenue aspect of the law, all persons dealing in the so-called exempt preparations must, under the federal act, be registered in Class 5, and pay a special tax of \$1.00 per year. Under the federal act, there has been no limitation upon those who may register in Class 5. As a result, grocers, general dealers and other types of outlets have qualified under the federal law, and thus may lawfully sell exempt preparations. This has precipitated a rather odd situation, because, while there is no limit upon the type and kind of individuals who may deal in exempt narcotics, all of these persons are held to compliance with that provision of the federal act which limits the sale and distribution of narcotic drugs to legitimate medical needs.

Obviously, there is a conflict between the purposes of the Federal Narcotic Act

on the one hand and the liberality of the tax provision on the other. Certainly, if the purpose of the federal law is to confine the sale and distribution of exempt narcotics to legitimate medical needs, then it is most illogical to permit their sale and distribution by persons having not the slightest conception of what their legitimate medical needs might be.

It would appear that the Harrison Narcotic Act is in need of amendment, limiting the sale and distribution of exempt narcotics to those who may deal in narcotics generally. It is interesting to note that the Uniform State Narcotic Act passed in Iowa in 1937 meets this situation, as in a sub-section of Section 8, dealing with exempt preparations, it is specifically provided that

"nothing in this section shall be construed to permit any person to prescribe, administer, compound, dispense or sell any of the preparations included herein, except those persons duly qualified under this act to engage in the distribution of narcotics."

Further evidence that the provisions of the federal act with respect to exempt narcotics is unwise is shown by the recent act passed in California, under which the sales of all preparations containing morphine or opium in any quantity are restricted to physicians' prescriptions.

Obviously, the Commissioners on Uniform State Laws departed from the philosophy of the federal act because in Section 8 of the uniform act, dealing with the exempt preparations, it is expressly stated that "except as otherwise in this act specifically provided, this act shall not apply to the following cases: prescribing, administering, dispensing or selling *at retail*" of any medicinal preparation containing narcotic drugs not in excess of the exempt proportions. Inasmuch as there is no reference to exempt narcotics in any other section of the Uniform State Narcotic Act, it must be inferred that the Commissioners on Uniform State Laws did not mean to recognize exempt preparations except at point of retail sale. In other words, all of the provisions of the Uniform State Narcotic Act apply to exempt narcotics to the same extent and to the same degree as they apply to other narcotics.

This is further evidenced by the definition of "official written order" as it appears in the Uniform Narcotic Act. In Section 1, Sub-section 15, official written orders are defined as follows:

"Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by Federal law, and if no such order form is provided, then on an official form provided for that purpose by the (Enforcing Department or Board).

Inasmuch as the federal law does provide for written order forms for the purchase of opium or cocoa leaves or any compound, manufacture, salt, derivative or preparation thereof, the only possible use for the State form, authorized by the Uniform Narcotic Act, would be for the purchase of Cannabis and its preparations and the so-called exempt narcotics. There can be no escape from the conclusion that it was the purpose of the Commissioners on Uniform State Laws, through the instrumentality of the Uniform State Narcotic Act, to surround Cannabis and its preparations and exempt narcotics with all the rigor of control and regulation with which narcotics in general are surrounded. This being done, it was considered sufficient liberality, in the light of the purpose and philosophy of the Uniform State Narcotic

Act, to permit Cannabis and its preparations and exempt narcotics to be sold at retail without the use of prescriptions or official written order forms.

It will be observed that the Uniform State Narcotic Act departs from the federal law by providing that official written order forms may be supplied:

- (a) To a manufacturer, wholesaler, pharmacist or pharmacy owner.
- (b) To a physician, dentist or veterinarian.
- (c) To a person in charge of a hospital, but only for use by or in that hospital; provided, the official written order is signed by a physician, dentist, veterinarian or pharmacist connected with such hospital.
- (d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medicinal purposes.

The effect of these limitations is to restrict the sale and distribution of Cannabis and its preparations and exempt narcotics to the foregoing persons and concerns, thus confining them to professionally trained hands.

Sometime ago I made a canvass of the situation in all of the states in which the Uniform State Narcotic Act had been passed, and found that in practically none of them was any enforcement activity being carried on. This is all the more surprising, because, as I have tried to point out, the Uniform State Narcotic Act includes Cannabis and its preparations and exempt narcotics, within the group of narcotics in general, with the single exception of the point at retail sale.

Some interesting questions immediately arise, once we understand the philosophy and purpose of the Uniform State Narcotic Acts, and we then begin to apprehend just why provision is made for the issuance of state official written order forms. For instance, how may a pharmacist, under the Uniform State Narcotic Act, obtain exempt narcotics for retail sale? The answer obviously is by means of the state official written order forms, for which the law provides. No sales at wholesale may be made of exempt narcotics except in pursuance of official written order forms. Inasmuch as the Federal official written order form may not be used for the purchase of Cannabis and its preparations and exempt narcotics, it then follows that the only order form which can be used is that provided for by the State enforcing agency. This is a matter of utmost importance, because it necessarily follows that in every state where the Uniform State Narcotic Act is in effect, and which has failed to provide the necessary state written order forms, all sales at wholesale have been in violation of the state act. This view is also held by the Federal Bureau of Narcotics, so I have been advised. This in itself is no small matter, when it is remembered that the Uniform State Narcotic Act provides penalties of great severity in cases of violations.

So far as I know, the only state which has made an attempt to deal with the situation is Maryland. In 1937, amendments were adopted to the Uniform State Narcotic Act in that state, under which authority the Maryland State Department of Health has provided official written order forms for the purchase of Cannabis and its preparations and exempt narcotics. The amendments themselves were instigated and sponsored by the federal government. Representatives of the federal government appeared before the State Department of Health urging this legislation, and they also appeared before committees of the Maryland legislature, to which the bill was assigned. The amendments became effective on June 1, 1937.

Unquestionably, there have been serious abuses of exempt narcotics. The

federal government has been aware of this situation, and it is for this reason, I believe, that it is showing a greater interest in a means of making the state laws more effective. The Uniform State Narcotic Act, when its provisions are brought fully into play, would seem to afford all necessary machinery for dealing with the situation so far as the states are concerned.

I have discussed the matter in this paper, though somewhat briefly, so that the attention of the state agencies themselves might be focused on the problem, as well as upon the responsibility placed on them by the specific terms of the Uniform State Narcotic Act itself.

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## LAW, ECONOMICS AND BUSINESS IN BUYING A DRUG STORE.\*

BY JOSEPH H. GOODNESS.<sup>1</sup>

If we recognize that drug stores are purchased for economic reasons of income and profit rather than for the establishment of systematic charities, then we can accept the idea that no going drug business should be bought until a thorough investigation, economic, legal and business, is made, and that the income, the profit and economic security we desire are reasonably sure to appear. Before we venture into the discussion of what this investigation should be like, we must remember that there is no absolute guaranty, even after the most thorough investigation, of always gaining this economic goal.

An earnest investigation, however, will so materially decrease failure, that one who cannot afford to lose his investment must, in fairness to himself and family, investigate. Too many humans plunge into new ventures with hopes high and out of reason. Reality soon reduces such hopeful innocents to failure, all neatly classified under such technical headings as "Insufficient capital," "Inexperience," "Poor business location," "Poor management," "Competition" and a host of others.

A thorough investigation of a drug store consists of three parts: an economic investigation of the chances of future success, a business investigation of the enterprise to determine its worth, and a legal investigation to assure the buyer of limited liability and complete passage of ownership to him.

### THE ECONOMIC INVESTIGATION.

The economic security and success we seek requires that we first examine the facts that may affect the future of the business.\* This investigation rests upon the principles and laws of economics, and consists of predicting, as best we can, the future size and nature of the *demand* for the goods and services of the store, the *monopolistic advantages* of the business, and the *competition*, both present and future, that the business must or may meet.

To know that the average store needs about 2100 of population to support it is not enough. A study of demand for the goods and the services of the store must be more searching. It begins with the present. What do the annual sales of the

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\* Section on Commercial Interests, A. PH. A., New York meeting, 1937.

<sup>1</sup> Assistant Professor of Economics and Business Administration, Massachusetts College of Pharmacy.