RECENT NATIONAL LEGISLATION AFFECTING PROFESSIONAL PHARMACY.*

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It is probably true that a greater number of measures and measures of greater direct importance to professional Pharmacy were introduced, amended and enacted and later made effective by Presidential approval, during the three sessions of the Seventy-Fifth Congress than in any preceding Congress of the United States. In addition, the laws enacted have led, or will lead, to regulations for their enforcement and to court decisions for their interpretation, which are or will be of much more than usual importance to our profession.

In fact, the full effect of the legislation will not be known until the regulations and the court decisions are available, and until experience in their enforcement is gained. However, the basic provisions of the legislation are so definite in most instances and so comprehensive in character, that the laws will probably exert a much more powerful influence, even though they may be amended, than is generally understood and in all probability, than was understood even by many who had a part in their drafting and enactment.

The length and purpose of this paper will permit only an enumeration and a brief review of these laws. They should, however, have the careful and prolonged study of those who are interested in the future of the profession of Pharmacy and it is hoped that their assembly in this form will impress every one interested, with their scope and importance.

Marihuana Taxing Law.—This measure was intended to practically outlaw a formerly important drug and its preparations through the taxing power of the Federal government rather than to directly forbid its importation or production as was done in the case of heroin, because the fiber, the oil and the seed of this drug have a large commercial use. The imposition of a tax on all transfers of the drug or its preparations, as well as the tax on the drug itself, is a new principle in narcotic legislation as is the requirement that the official order forms for its purchase cannot be obtained in advance. In the first draft, it was required that the applicant for the forms must appear in person at the office of the Collector of Internal Revenue when the forms are required but it was later provided that the forms could also be secured by mail when required.

The Source of and Tax on Distilled Spirits Including Alcohol.—In the so-called Sugar Act of 1937, an effort was made to impose a tax on liquid sugars only when used in the distillation of alcohol and this was opposed on the ground that it would increase the cost of drugs and medicines and was an attempt to limit the source of a necessary chemical substance.

In the 1938 Tax Bill, a floor tax of 25 cents per proof gallon was imposed on distilled spirits including alcohol. An exemption was granted on distilled spirits when employed for non-beverage purposes which amounts to a savings of approximately 47 cents per wine gallon of alcohol.

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In the consideration of the Food, Drug and Cosmetic Bill in the House another attempt was made to limit the source of distilled spirits to cereal grains, which was defeated.

Distilled spirits, and especially alcohol, are so necessary in Pharmacy that every effort should be made to secure a clear distinction between their use for beverage purposes as against their use for non-beverage or industrial purposes, and to prevent any limitations on their source except so far as that is necessary, provided their identity, strength and purity can be protected.

Venereal Disease Control Act.—Under this measure, $15,000,000 was appropriated over a period of three years, "For the purpose of assisting states, counties, health districts and other political subdivisions of the states in establishing and maintaining adequate measures for the prevention, treatment and control of venereal diseases." A plan is here provided for coöperation between the national and the state governments for the control of a class of diseases, which offers the pattern for the similar control of other diseases and the extension of medical services under governmental control.

Fair Labor Standards Act.—Professional services are given a clear exemption under the first Federal legislation to directly control minimum wages and maximum hours of employment, which in all probability will become the pattern for state legislation. This exemption should be carefully guarded and protected by the maintenance of a fair schedule of wages and hours in Pharmacy.

Federal Trade Commission Act.—In this measure the basic act establishing the Commission was amended (1) to broaden the powers of the Commission over unfair methods of competition by giving it jurisdiction over all unfair or deceptive acts or practices in commerce whether competitive or not, and (2) to give the Commission more effective control over the false advertising of foods, drugs, devices and cosmetics. The definitions of these latter articles are similar to those in the Federal Food, Drug and Cosmetic Act, referred to below, and are very comprehensive. The false advertisment of any of them for the purposes of the act "means an advertisment, other than labeling, which is misleading in a material respect; and in determining whether any advertisment is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisment fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodities to which the advertisment relates." It should be noted that the advertisement is false if misleading in a material respect and that for the first time, failure to reveal material facts is recognized as constituting false advertising.

It will be seen that the Commission is given very broad powers of control and in addition provision is made for its cease and desist orders to become final in a given time and under certain conditions of appeal and decision. This measure may be said to materially extend and supplement the measure next discussed and it is fortunate that so far as advertising is concerned their definitions are similar and that they do not overlap.

Federal Food, Drug and Cosmetic Act.—This measure materially extends the provisions, prohibited acts and penalties of the former Food and Drugs Act of

1906. It also brings cosmetics and devices under its provisions and the advertising of foods, drugs, devices and cosmetics so far as labeling is concerned, and prohibits the introduction or the delivery for introduction into interstate commerce of a new drug except under the conditions specified which are intended to protect the public against dangerous drugs. As stated above, the definitions of food, drugs, devices and cosmetics are very comprehensive and parallel those in the Federal Trade Commission Act. For the purposes of the Act, labeling is defined as "all labels and other printed, written or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article." False advertising of these products so far as the labeling is concerned, is covered by the requirement that the labeling shall not be false or misleading in any particular. In determining whether an advertisment on the labeling is misleading, the same requirements apply as were set up for false advertisments other than on the labeling and which were quoted above.

The provisions covering the adulteration or misbranding of drugs and devices are greatly extended and for the first time, prescriptions are exempted from certain of the misbranding provisions specifically. The labeling provisions should be studied carefully as they will apply to retail pharmacies if the states adopt similar provisions.

Sections 201 and 505 relating to new drugs and Section 702 relating to samples became effective upon approval of the Act on June 25, 1938 and the other sections become effective one year afterward. Regulations under the sections now effective were issued on July 22, 1938 and regulations under the other sections will be issued as soon as practicable. The four reasons why a drug may be a new drug are very important since they may bring within the terms of the Act many articles now considered as old drugs because of newness of use, newness of combination, newness of proportions, newness of dosage, newness of methods of application or duration of administration or newness of other conditions of use that are otherwise different.

Regulations under the Harrison Act.—A recent act of Congress requires the codification of all regulations under Federal Acts, and in complying it was thought advisable to completely revise the regulations governing the importers, manufacturers, wholesalers and retailers licensed under the Harrison Narcotic Act and copies of the revised regulations will be made available by the Bureau of Narcotics to the Deputy Collectors of Internal Revenue during the month of August for distribution to every registrant. It is understood that no changes of consequence to pharmacists have been made in this revision of the regulations, but the codification of other regulations may be of importance.

This enumeration and very sketchy review of the legislation given consideration during the Seventy-fifth Congress may serve the purpose of indicating that the profession of Pharmacy is very directly affected by the legislation and that its responsibilities are greatly increased by reasons of its provisions. In the same measure, its opportunities as a profession are increased and furthermore its services are more likely to be valued at their true value by the American people.