

PRICE STANDARDIZATION.

AT the Second Annual Meeting of the United States Chamber of Commerce held in Washington the week of February 9, last, one of the leading subjects of discussion was that one of paramount importance, not only to the members of our profession but to all retail merchants,—“Price Protection.”

This cause which has been so long discussed and which so many times seemed almost to have received its death-blow, was there stimulated into new and vigorous life, one which gives promise of bringing relief to the retail-traders of the nation from the vexatious and distressing conditions which have so long affected them.

There is hope for the patient when the cancerous growth has been removed and there is hope for the retail business-interests of the country when the vicious and cancerous condition which has so harmfully affected trade shall have been eliminated from it.

So all thoughtful and hopeful men turn their eyes toward this gathering as to a harbinger of good tidings as they read of the enthusiasm shown in the hearty support given to this question in such an influential organization as the U. S. Chamber of Commerce, a body representing a membership of more than half a million of the business men of the country.

The session of Friday, February 13, was devoted almost entirely to this important question. The Hon. Joseph E. Davies, the U. S. Commissioner of Corporations, spoke upon the subject, naturally not committing himself upon so important a question, which was one, he said, that “in the matter of living affects very vitally the great body of consumers in this country.” He said that the Bureau of Corporations was engaged in making a study of the question and that it was its purpose to make that investigation “fair and impartial, without preconceived bias, prejudice or judgment.” Mr. William H. Ingersoll delivered a notable address, in which he said that, “Price Standardization is the term that describes the system best to my mind; not high prices, but standard prices to all, the same thing for the same money to all upon fair and equal terms.” He strongly condemned the methods of those who by means of misleading advertisement and misrepresentation filched from their fellow-citizens their good name and the return they were rightfully entitled to by their enterprise, their toil and thought. Mr. Ingersoll’s able speech stirred his auditors to applause and at the close of his address he was given an ovation. Mr. Donald Dey, of Syracuse, N. Y., while saying that he looked upon price-cutting as a menace and that some saner method of attracting business should be adopted, counseled delay in seeking legislation to remedy the evil. He felt sure “that when the subject had been brought seriously to the attention of the average merchant that the ethical side would appeal strongly to him, that his views would be changed and with a change of view will come a change of method.” In what way this was to be accomplished Mr. Dey did not say, but, judging from past experience in trying to influence the cut-price merchants into a sane way of doing business, his method would bear fruit at about the time the millennium was due.

A Bill, (the Stevens Bill, H. R., 13305), which apparently had its inception at this meeting is given publicity in the Washington News Letter of the Journal of the N. A. R. D. and support for which is asked of all the members of the trade by writing to their representatives in Congress. Deprived of its verbiage the purpose of this bill is to make it "Lawful for a manufacturer to prescribe the sole and uniform price at which each article covered by contract shall be sold." That is, if this bill should become a law, it will make legal that which the Supreme Court decided in the Miles case was unlawful, "was against public policy and void," and manufacturers can lawfully fix the price at which their products shall be sold.

The full text of this bill is as follows:

That in any contract for the sale of articles of commerce to any dealer, wholesale or retail, by any producer, grower, manufacturer, or owner thereof, under trade-mark or special brand, hereinafter referred to as the "vendor," it shall be lawful for such vendor, whenever the contract constitutes a transaction of commerce among the several states, or with foreign nations, or in any territory of the United States, or in the District of Columbia, or between any such territory and another, or between any such territory or territories and any state or the District of Columbia, or with a foreign nation or nations, or between the District of Columbia and any state or states or a foreign nation or nations, to prescribe the sole, uniform price at which each article covered by such contract may be resold: *Provided*, that the following conditions are complied with:

(A) Such vendor shall not have any monopoly or control of the market for articles belonging to the same general class of merchandise as such article or articles of commerce as shall be covered by such contract of sale; nor shall such vendor be a party to any agreement, combination, or understanding with any competitor in the production, manufacture, or sale of any merchandise in the same general class in regard to the price at which the same shall be sold either to dealers at wholesale or retail or to the public.

(B) Such vendor shall affix a notice to each article of commerce or to each carton, package, or other receptacle inclosing an article or articles of commerce covered by such contract of sale stating the price prescribed by the vendor at the time of the delivery of said article as the uniform price of sale of such article to the public, and the name and address of such vendor, and bearing the said trade-mark or special brand of such vendor. Such article or articles of commerce covered thereby shall not be resold except with such notice affixed thereto or to the cartons, packages, or other receptacles inclosing the same.

(C) Such vendor shall file in the Bureau of Corporations a statement setting forth the trade-mark or special brand owned or claimed by such vendor in respect of such article or articles of commerce to be covered by such contract of sale, and also, from time to time, as the same may be adopted or modified, a schedule setting forth the uniform price of sale thereof to dealers at wholesale, and the uniform price of sale thereof to dealers at retail from whatever source acquired and the uniform price of sale thereof to the public, and upon filing such statement such vendor shall pay to the Commissioner of Corporations a registration fee of \$10. The price to the vendee under any such contract shall be one of such uniform prices to wholesale and to retail dealers according as such vendee shall be a dealer at wholesale or a dealer at retail, and there shall be no discrimination in favor of any vendee by the allowance of a discount for any cause, by the grant of any special concession or allowance, or by the payment of any rebate or commission, or by any other device whatsoever.

(D) Any article of commerce or any carton, package, or other receptacle in-

closing an article or articles of commerce covered by such contract and in possession of a dealer may be sold for a price other than the uniform price for resale by such dealer as set forth in the schedule provided in the next preceding paragraph (C): First, if such dealer shall cease to do business and the sale is made in the course of winding up the business of such dealer, or if such dealer shall have become bankrupt, or a receiver of the business of such dealer shall have been appointed, provided that such article or articles of commerce shall have first been offered to the vendor thereof by such dealer or the legal representative of such dealer by written offer at the price paid for the same by such dealer, and that such vendor, after reasonable opportunity to inspect such article or articles, shall have refused or neglected to accept such offer, or, second, if such article of commerce or contents of such carton, package, or other receptacle shall have become damaged, deteriorated, or soiled: *Provided*, that such damaged, deteriorated, or soiled article shall have first been offered to the vendor by such dealer by written offer, at the price paid for the same by such dealer, and that such vendor, after reasonable opportunity to inspect such article or articles, shall have refused or neglected to accept such offer, and that such damaged, deteriorated, or soiled article shall thereafter only be offered for sale by such dealer with prominent notice to the purchaser that such article is damaged, deteriorated, or soiled, and that the price thereof is reduced because of such damage.

It may be said that the proposed bill is not as precise in its terms nor does it seem so well-contrived to produce the reform desired as the bill endorsed, we understand by the American Fair Trade League. That law made it imperative upon dealers to fix a selling-price upon their product under penalty of losing the protection of the patent, copyright or trade-mark laws, and also declared it unlawful to sell or to offer goods for sale at a price different from the fixed price, under penalty of a fine of not less than \$100.00 nor more than a \$1000.00. The proposed law (H. R. 13305) does not forbid, except by inference, the sale of goods at a price differing from that specified by the maker thereof, nor does it provide any penalty for so doing. A court might construe the law to mean that goods should be sold only at the fixed price, and it might not, and nowhere in the proposed law as it is in the other, is it declared unlawful to "break the price." It seems as though the law might just as well be made a positive and an unevadable law, a law "with teeth in it" for those who have shown themselves so unscrupulous and so careless of the welfare of their fellowmen, instead of being one with loopholes through which these selfish persons may escape the consequences of evil doing.

The proposed law is a good one; a step in advance, but a longer stride in the same direction can be made with almost the same effort, by means of which, hope for reform will not be disappointed and the results which all honorable men of the trade have long desired will be achieved.

The Metz Bill (H. R. 13860) is another bill which seeks with much expense of language to make price-regulation lawful and, in but one way and that a doubtful one does it appear superior to the Stevens Bill. It makes it legal to establish uniform retail selling prices like the former and further provides that any person who "shall violate either the wholesale or retail uniform selling price of a uniform commodity, shall be liable to an action for damages and an injunction at the suit of any proprietor, dealer or consumer who deals in or with or in consuming such uniform commodity."

The text of the Metz Bill is as follows:

- To prevent discrimination between different consumers and localities by establishing uniform prices for uniform commodities.
- Whereas experience has demonstrated the advantages and protection to the consumer of standard or uniform commodities marketed under the trade-mark of the proprietor who originates the commodity and who by careful and responsible business methods and guaranties, and by constant maintenance of the excellence of the commodity, builds up a reputation and standard or uniform value for the commodity, and who thus creates and owns the good will connected therewith; and
- Whereas it is desirable that consumers shall be able to purchase uniform commodities in all localities at uniform prices, whereby to prevent discrimination between different consumers and localities; and
- Whereas uneven prices for the same uniform commodity tend to effect discrimination between different localities and consumers, and to depreciate the quality of the commodity, and to destroy competition in that commodity and to monopolize the sale of the same, and to deceive consumers as to the value of the commodity, and otherwise and wrongfully to appropriate and impair the good will of the originating proprietor; and
- Whereas under existing law proprietors possessing large capital, resources, and facilities, through their consequent ability to maintain branch establishments or sole agents throughout the country for fixing uniform prices for uniform commodities, are enabled to discourage competition, to deprive retailers of their independence, and to prevent them from handling competing commodities, and otherwise to exercise an unfair advantage over smaller competitors; and
- Whereas the increased expense of maintaining branch establishments or sole agencies increases the price of commodities to the consumers; and
- Whereas uniform prices facilitate the wide and steady distribution of uniform commodities and thus tend to lower the price to consumers by lowering the cost of production and distribution: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following terms and phrases in this Act are used and inserted with the sole sense, meaning, and definitions now set forth:

A "uniform commodity" is hereby declared and defined to be any article, product, or commodity which enters into interstate commerce, and which is standard or uniform in grade, size, and quality with other articles, products, or commodities of the same price of the same proprietor, and which has affixed, printed, stamped, embossed, engraved, or otherwise marked thereon or applied or attached thereto, in any manner, or to the package, can, bottle, box, or other container, receptacle, or covering of any character whatever, in which the article, product, or commodity is packed, contained, or inclosed, the trade-mark or trade-name of the proprietor of said article, product, or commodity, which trade-mark or trade-name has been properly registered in the United States Patent Office under the terms and provisions of the Act entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several states or with Indian tribes, and to protect the same," as enacted February twentieth, nineteen hundred and five, and as now, as well as hereafter, amended, together with the notice of the registration of said trade-mark or trade-name, as required by said Act.

A "proprietor" is hereby declared and defined to be any person, firm, corporation, or association engaged in manufacturing, selecting, packing, distributing, printing, publishing, or otherwise producing or preparing for the market any uniform commodity under a trade-mark or trade-name, owned by said proprietor, and which has been registered by said proprietor, or his predecessors in business,

in the United States Patent Office, under the terms of an Act entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several states or with Indian tribes, and to protect the same," as enacted February twentieth, nineteen hundred and five, and as now, as well as hereafter, amended.

A "dealer at wholesale" is hereby declared and defined to be any person, firm, corporation, or association who or which distributes or sells any uniform commodity to any dealer for resale.

A "dealer at retail" is hereby declared and defined to be any person, firm, corporation, or association who or which sells any uniform commodity direct to any consumer.

A "consumer" is hereby declared and defined to be any person, firm, corporation, or association who or which purchases any uniform commodity for ultimate consumption or use.

The expression "interstate commerce," as used herein, is hereby declared and defined to mean commerce between the United States and foreign nations, or among the several states, or between a state or states and places subject to the jurisdiction of the United States, or between any territory of the United States, and in and between such territory or territories and any state or states and the District of Columbia, or places under the jurisdiction of the United States, or between the District of Columbia and any state or states and foreign nations or places under the jurisdiction of the United States.

Sec. 2. That the proprietor of any uniform commodity, entering into interstate commerce, may establish a uniform retail selling price for such commodity to all consumers, wherever located, after making due allowance, at the option of the proprietor, for the actual cost of transportation from the point of production or manufacture of such commodity to the point of retail sale or consumption, by a notice of said uniform retail price applied to or connected with said uniform commodity, or served on the dealer either directly or through the usual trade channels: *Provided*, That the purpose and effect of said uniform retail price is to avoid discrimination between different consumers and localities: *And provided also*, That the proprietor shall file in the Bureau of Corporations, as a public record, under rules to be prescribed by said bureau, a uniform price schedule identifying the uniform commodity, and setting forth the uniform price of sale thereof from the proprietor to all dealers at wholesale, and the uniform price of sale thereof from the proprietor and all dealers at wholesale to all dealers at retail, and the uniform retail price of sale from the proprietor and all dealers at either retail or wholesale, to all consumers: *And provided also*, That new uniform price schedules shall always be filed in the Bureau of Corporations not less than thirty days before sales at newly established uniform prices may lawfully be made by the proprietor, such new schedules to apply only to uniform commodities which have notice of the new uniform consumer's price applied thereto or connected therewith.

Sec. 3. That any proprietor or any dealer at wholesale or retail who shall violate either the wholesale or retail uniform selling price of a uniform commodity entering into interstate commerce by charging or accepting, at wholesale or retail, as the case may be, a less price, directly or indirectly, for said commodity than the wholesale or retail uniform price established by the proprietor, shall be liable to an action for damages and an injunction at the suit of any proprietor, dealer, or consumer engaged in producing, or dealing in or with, or in consuming such uniform commodity.

Sec. 4. That any uniform commodity in possession of a dealer at wholesale or retail may be sold for a price other than the uniform price set forth in the uniform-price schedule filed under section two hereof providing such dealer shall cease to do business and the sale shall be in the course of winding up the business of such dealer, or providing such dealer shall have become bankrupt or a re-

ceiver of the business of such dealer shall have been appointed: *Provided*, That in either case above specified such uniform commodity shall have first been offered to the proprietor by the dealer, receiver, or trustee in bankruptcy, or the legal representative of the dealer, by a written offer at the price paid for the uniform commodity by such dealer, and that such proprietor, after reasonable opportunity to inspect such article or articles shall have refused or neglected to accept such offer, or providing such uniform commodity shall have become damaged, deteriorated, or soiled, and providing that such damaged, deteriorated, or soiled article shall have first been offered to the proprietor thereof by the dealer by written offer, at the price paid for the same by such dealer, and that such vendor, after reasonable opportunity to inspect such uniform commodity, shall have refused or neglected to accept such offer, and providing that such damaged, deteriorated, or soiled article shall thereafter only be offered for sale by the dealer with prominent notice to the consumer that such uniform commodity is damaged, deteriorated, or soiled and that the price thereof is reduced because of such damage.

Sec. 5. That nothing in this Act shall be construed as repealing an Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," which became a law on the second day of July, in the year eighteen hundred and ninety.

Comprehensive as this bill is apparently intended to be, with its precise definitions of everything connected with its subject, it does not make clear how a consumer could estimate his damages in a transaction where he had purchased goods at a less price than the one fixed, and the bill is somewhat objectionable because it leaves the punishment of the offender to private initiative. It is possible that this bill, with its provision for the punishment of offenders in this way, may be found acceptable, with a view to after amendment by which those who violate the law may be punished by public prosecution. We urge Price Standardization on the ground of the public weal, not to protect individuals, and we say that anyone who cuts prices is acting against the public interests and it would seem as though they should be punished as others are punished who commit offenses of that nature. But this bill, like the other, is to be commended as marking a distinct and positive advance toward better and more hopeful conditions and as such it should meet the approval of all friends of just and honorable methods in trade.

ERNEST C. MARSHALL.



PROPOSED ENTERTAINMENTS AT THE DETROIT MEETING.

IN preparing for the August meeting of the American Pharmaceutical Association the various committees on Entertainment, Finance, and Ladies' Program have gotten down to real work, with every determination to make the '14 convention the Banner Meeting of the Association. They have ample "steam" and funds at their disposal, backed up by the very rich attractions which Detroit offers as a Convention City.

The Michigan travelers of the drug houses, headed by Mr. Frank Kerr, are making it possible to send the Journal of the Detroit Retail Druggists' Association to every druggist in the state. Each issue bears some interesting article or announcement pertaining to the August meeting.

It is expected that the visitors will wish to catch some glimpses of the huge