An old system and a new science / by F.E. Stewart.

An Old System and a New Science.

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—BY—

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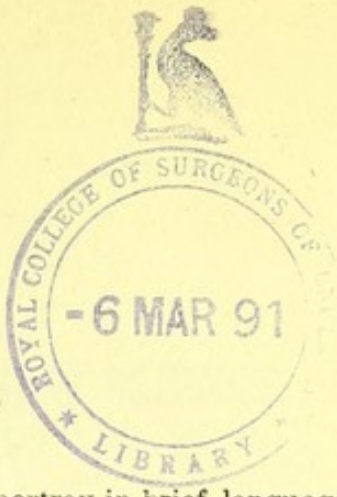
To the Professions of Medicine and Pharmacy, this work is respectfully dedicated by the author.



PREFACE.

The object of this little monograph is to portray in brief language, a great work which we are seeking to accomplish, whereby Pharmacy may be raised to its true position as a science intimately associated with the Materia Medica and Therapeutics under the general term Pharmacology, or the science of drugs.

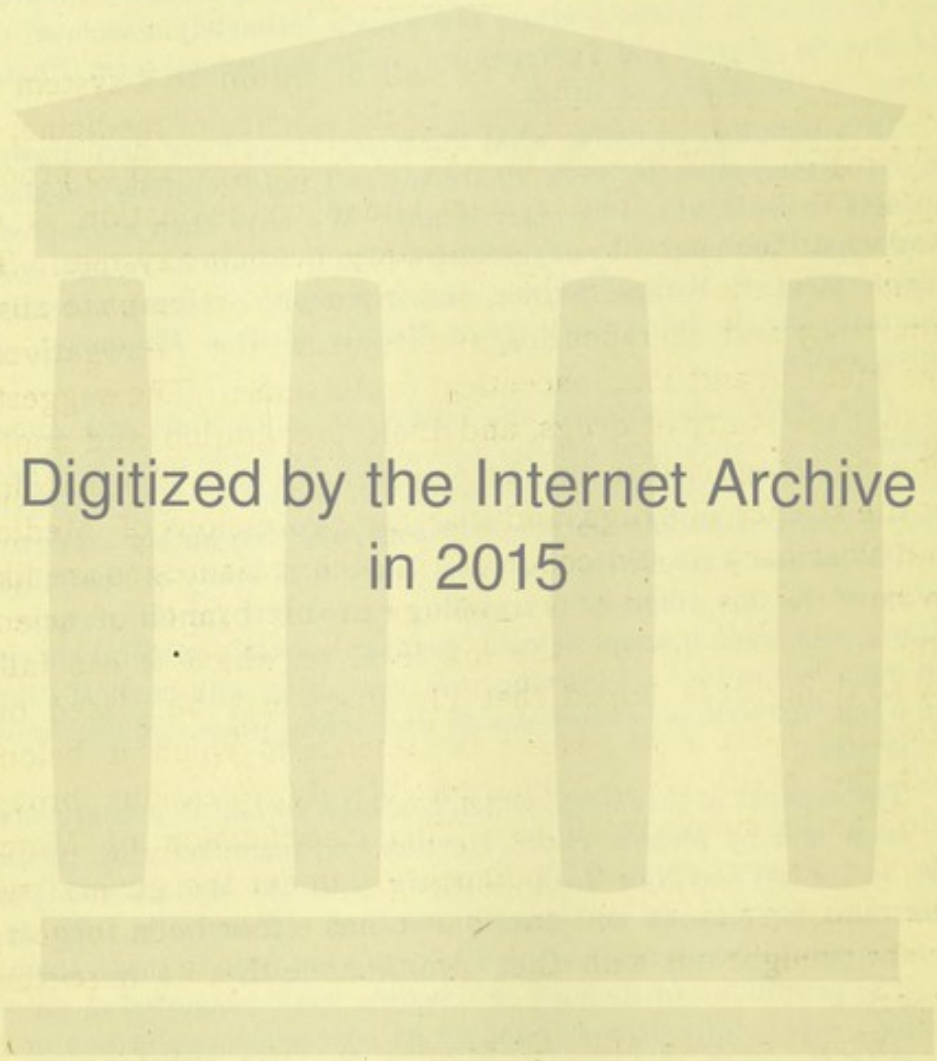
In attempting to define what Pharmacy is we have first drawn a line of demarkation between Pharmacy and the Proprietary medicine business to show what Pharmacy is not. We have then attempted to show what Pharmacy is by suggesting a plan to secure its recognition as a department of Medical Science, and to promote progress, not only in Pharmacy but in the knowledge of Materia Medica, Pharmacy, and Therapeutics.

This work has entailed the outlay of much time and money. Thousands of reprints of articles by various scientific men, bearing on the theme of the "Relations of Pharmacy to Medicine" have been extensively circulated in this country and Europe; while the author has devoted his time almost exclusively for three years to a study of the subjects embraced in this connection, traveling extensively for the purpose of talking with leading scientific men, visiting hospitals, medical colleges, and other institutions of learning, and consulting with medical editors and numerous writers connected with the medical press, and well-known in literature.

The expense of this work, which has been several thousand dollars, has been met by Messrs. Parke, Davis & Co., manufacturing pharmacists, of Detroit and New York, to whom both the Medical and Pharmaceutical professions are greatly indebted. Personally, and as a representative of both professions, I take this occasion to thank them.

The practibility of the plan of scientific work suggested in the following pages is fully demonstrated by its successful application in the hands of Messrs. P., D. & Co., and they unite with the author, in the hope that it may serve to promote progress in the knowledge of drugs and their application to the relief of human suffering.

F. E. S.



AN OLD SYSTEM AND A NEW SCIENCE.

BY F. E. STEWART, M. D., Ph. G.

In this paper I desire to call attention to a system that is seriously retarding progress in the science of medicine, and to suggest a new system to take its place, devised to promote progress therein. The system under condemnation is that known as the patent or proprietary medicine system. This trade is at the present time, making a bold attempt to absorb pharmacy and therapeutics, and to usurp the prerogatives of the Medical and Pharmaceutical professions. The suggestion is that the study of drugs, and their preparation and application, be recognized as a science, under the term Pharmacology, or the science of drugs, and that the professions of Medicine and Pharmacy should coöperate in such measures as are likely to raise the standard of knowledge in this branch of science, and to elevate it from the low level to which it has fallen. By so doing, it is hoped that pharmacy may be placed on a scientific basis, as a part of the science to which it belongs, and the Medical and Pharmaceutical professions brought into harmonious relations. This classification of Materia Medica, Pharmacy, and Therapeutics, under the general term pharmacology is an old one, but it has either been forgotten, or not brought out with that prominence that its importance deserves.

Wood defines Materia Medica as "the substances employed in medicine," Pharmacy as "the art of preparing medicine," and Therapeutics as "the application of medicine to the cure of disease." And he also says that these branches are so closely connected as to be embraced under the general term Pharmacology. This close connection is also recognized in the making of the Pharmacopœia, which was originally compiled, and is decennially revised by a committee representing

both professions. This subject, referring as it does to the Pharmacology, and the United States Pharmacopœia, is, therefore, a matter of interest to the Medical profession, and not out of place in the discussions of the American Medical Association, as some would have us believe.

An intimate knowledge of the materia medica is indispensable to the true education of the physician. This branch, however, is very much neglected by modern teachers in medical schools, and students leave our medical colleges who have never seen either the drugs, or their preparations, that are to form their armamentarium in future years. Is it any wonder, then, that therapeutics are so far behind other branches of medical science? The result of this want of knowledge upon the part of the profession has led to much of the skepticism that exists at the present time with regard to the action of drugs, and to it may also be traced many of the abuses that are so seriously injuring the medical profession. The success of the proprietary medicine system can also be traced directly to this cause. If it were not so, the patent medicine trade would never have been able to so nearly absorb pharmacy as it has done in the past fifteen years.

A good illustration of the low ebb of medical education in the direction of pharmacy, in this country, is furnished by an incident which happened recently in one of our neighboring cities. At a meeting of the County Medical Society, a member, prompted by a remark made by the writer, asked the question, "What is the difference between a tincture and a fluid extract?" Astonishing as it may appear, not a gentleman present, and among them was numbered a professor in a well known medical college, could answer this simple question correctly, and some of the answers given showed an utter want of knowledge of the first principles of pharmacy. Nay, more; a certain president of one of the leading colleges in the West took the position in a recent conversation that I had with him, that the Pharmacist occupies the same position to him in a medical relation as his cook occupies in the culinary art. In either case, he does not pretend to know anything about the art, and as long as his servant does his duty by furnishing him good food, or good pharmaceuticals, as the case may be, for the way that he pre-

pares them he cares not a straw. The results of such doctrines will account for the deplorable condition to which education has descended in Pharmacology.

We have two professions working in the field of Pharmacology and known respectively as the Medical and Pharmaceutical professions. The Pharmacist investigates drugs to ascertain their origin, physical appearance, microscopical and chemical structure, and other properties which they may possess, so that he can properly select, prepare, and dispense them. The work of the Medical profession in this field is the investigation of the application of drugs to the cure of disease. The interests of the proprietary medicine trade are diametrically opposed to those of either the profession of Medicine or of Pharmacy, and to the science of medicine. It is an unscientific system, and its whole scheme is the locking up of knowledge for trade purposes. A proprietary medicine is an alleged remedy, the descriptive name of which is claimed as a trade-mark by the manufacturer, who thus monopolises its manufacture and sale. Most of the proprietary medicines are of secret formulæ, but those advertised to the medical profession purport to be open to scientific inspection. The fact, however, is that the working formulæ are not published, and the art of their manufacture is only known to their proprietors. Any attempt of a competitor to market them is always resisted by due process of law, and the result of this system is that the knowledge of pharmacy is being rapidly locked up by a few trade houses, and the preparation of medicine has become a monopoly. By preventing competition it is possible to create an artificial demand for these imitation pharmaceuticals by ascribing to them marvelous virtues which they do not in fact possess, and at an exorbitant price, by highly colored literature, and florid advertisements. The medical profession are tricked into furnishing certificates as to their value in treating the sick, without that careful investigation of their secret of manufacture, and of their reputed properties, necessary to justify an opinion; and then the whole advertising machinery is turned to creating a demand among the people under the sanction of the medical profession.

By this proprietary medicine practice, compounds of drugs of every-day use are placed on the market under fanciful names, the sole use of which is monopolised by the manufacturers. With the large margin thus made possible there is a lavish use of printer's ink, and we have both professional and secular journals, and the religious press as well, filled with advertisements of bronch*ines*, gastric*ines*, and gonorrhœa*ines*, and a host of other compounds, of equally scientific names, with the fashionable *ine* termination. The ultimate purpose or end of this class of remedies is direct advertising to the people in the religious, literary, and secular press, under the physician's sanction and recommendation. This form of proprietary medicines thus becomes the most formidable and dangerous rival to the Physician and the Pharmacist, both professions being robbed of patronage, which is adroitly wrested from them by the patent medicine trade.

Doctors who prescribe this class of pharmaceuticals prescribe themselves out of practice:

1. By enabling the patient to prescribe the same article or similar preparations for himself in the future, and thus dispense with the physician's services.
2. By encouraging the patient to purchase direct from the druggist, who can hardly be blamed for furnishing supplies according to the demand thus created.
3. By patients recommending the ready-made remedy to their friends afflicted in any similiar manner, who also treat themselves henceforth without the aid of a physician. One prescription may in this manner sell dozens or hundreds of bottles which the physician did not prescribe, and for which he receives no compensation.
4. By the business monopoly and prosperity accruing to the manufacturer, if the remedy affords relief or cure. In this case the manufacturer secures the credit of the cure: but if the remedy fails in the first instance, the censure is ascribed to the doctor for prescribing it, and confidence in his professional skill is correspondingly depreciated.

The effects of the proprietary medicine system on the

pharmaceutical profession, and on medical science are best illustrated by the following cases which have happened during the past year. The first one is the celebrated international case of Allen & Hanburys, of London, against Parke, Davis & Co., of Detroit, and the other was the case of Willis A. Gregory and Willis G. Gregory against Bodenbach, of Buffalo, N. Y. Both were for alleged infringement of trade-mark. In the first mentioned case the prosecution were defeated and withdrew the suit, in the latter, however, a compromise was effected contrary to the interests of scientific medicine.

The case of Allen & Hanburys, against Parke, Davis & Co., is thus reported in the New York Evening Mail and in the circulars issued by defendants, which we will number 1, and 2, respectively, and which are here offered as evidence.

[CIRCULAR NO 1.]

[From the N. Y. Evening Mail, Oct. 15th, 1881.]

Interesting Trade-Mark Litigation.

Messrs. Allen & Hanburys, a drug house of London, have commenced a suit in the United States District Court, against Parke, Davis & Company, a drug corporation whose manufactory is in Detroit, but which is also located in this city, to restrain them from the use of the name of the drug "Tonga," and from further selling the drug on the ground that they have a trade-mark upon the word "Tonga." The case first came up for hearing yesterday in this city before Commissioner Deuel, and it is attracting considerable interest among the drug trade, as it involves a principle which has frequently been passed upon by the courts of this State, but apparently has never been definitely and specifically settled by the Supreme Court; that is, whether a party has the right to trade-mark the proper name of an article, and thus exclude others from the manufacture of the same article; and the name having by adoption and use become the name of the article, whether others have the right to manufacture and sell the same article under the same name, the article not

having been patented. This will affect many of the patent medicines and preparations for which protection is sought by registering the name as a trade-mark. It is understood that when the case was brought, the complainants, as the chemical extract "Tonga" is of no considerable importance, supposed that Parke, Davis & Co. would consent to cease to use the article, and the case would be dropped. Messrs. Parke, Davis & Co., however, regarded the principle involved in the case as of vital importance to the drug trade, and therefore will not consent to the settlement of the principle adverse to the ground taken by them by any other court than the court of final resort. Mr. Rowland Cox, of this city, appears for Messrs. Hanburys & Allen, and Mr. Frederick H. Betts, Mr. James Brooks Dill, of this city, and Judge Lothrop, of Detroit, for Messrs. Parke, Davis & Co.

TO THE TRADE.

GENTLEMEN:—We clip from the advertising columns of the *Oil and Drug Reporter*, published in the City of New York, the following advertisement:

TONGA,

To the Trade:

We respectfully notify the trade that Messrs. Allen & Hanburys, of London, claiming the exclusive right to use the word **"Tonga"** as a trade-mark, have commenced proceedings in the U. S. Circuit Court at Detroit to establish their right,

Persons selling any preparation other than that of Messrs. Allen & Hanburys under the name of "Tonga" will find it to their interest to inform themselves as to the facts. **W. H. Schieffelin & Co.,**
Sole Agents.

NEW YORK, July 28th, 1881.

Inasmuch as the threat covered in this advertisement bears somewhat upon the legal responsibility of ourselves and

our patrons, we take the liberty to place before you the facts of the Tonga case as follows:

Tonga is a compound of barks prepared by the natives of the Fiji Islands, and has borne in that locality for years the reputation of being an effective remedy in the treatment of neuralgia. A quantity thereof was brought, as alleged, to London in the year 1879 by one Mr. Ryder, who placed the same in the hands of Allen & Hanburys, druggists, London, in order that it might be introduced properly to the medical profession. The first information relative thereto which was published to the public or to the medical profession appeared in the shape of an article in the London *Lancet*, March 6, 1880, pp. 360, 361, March 20, 1880, p. 445, as a communication from the pens of the distinguished physiologists and therapeutists of London, Drs. Wm. Murrell and Sidney Ringer. Following this article were others of a similar nature in the *Lancet*, and one appearing in the London *Pharmaceutical Journal and Transactions*, April, 1880, from the pen of the distinguished curator of the Pharmaceutical Museum of London, Dr. Holmes, upon the subject of the "Botanical Origin of Tonga." Believing that Drs. Murrell and Ringer, from their high professional position, would never have investigated or published the results of their investigations of any drug in the London *Lancet*, unless it were free from any contaminations of a proprietary nature, we felt no hesitancy in assuming that Tonga was common property, and accessible to the reach of any house of sufficient enterprise to seek the drug in its original habitat. Acting on this supposition we dispatched a special representative to the Fiji Islands, 7,000 miles southwest from San Francisco. He remained in the Fiji Islands six months, which visit resulted in the final delivery to us, at Detroit, in the month of December, 1880, of a large supply of this new drug. In accordance with our usual custom, we at once published what reliable information we had with reference to the medical properties of this drug, and distributed ample quantities to individual practitioners as well as the public hospitals of the United States for trial, at the same time occupying a large amount of expensive advertising space in the various medical journals of America. As a result of this action a demand was

rapidly created for Tonga, which attracted the notice of Allen & Hanburys. Supposing that a simple word of advice from them would induce us to relinquish all results from our enterprise and expenditure, they addressed us a letter, of which the following is a copy:

LONDON, 10th March. 1881.
PLOUGH COURT,
37 Lombard Street, E. C.

MESSRS. PARKE, DAVIS & CO.,
DETROIT, U. S. A.

GENTLEMEN:—Yesterday we had brought to our notice an advertisement of yours headed "Tonga," and describing the article as a remedy for neuralgia from Fiji, and citing certain passages from English medical papers as if written in reference to the article offered by you.

You can hardly be aware that the name "Tonga" is our property, and was agreed upon by us with the past proprietor on behalf of himself and the discoverers of a certain combination of drugs for neuralgia, and that the papers cited by you were written in reference to this special combination.

Even if you were in possession of the identical combination, which is manifestly highly improbable, it would be so obviously unjustifiable to seek to appropriate our name, which is a registered trade-mark, and the accounts given of our friend's article that we cannot doubt on the facts being thus pointed out to you will at once cease to use the name Tonga, and also to quote as referring to your article the papers alluded to.

Requesting you to give the matter your earliest attention, we are, gentlemen, Yours truly,

ALLEN & HANBURYS.

To this letter we replied as follows:

DETROIT, MICH., March 29, 1881

MESSRS. ALLEN & HANBURYS,
PLOUGH COURT, 37 Lombard St., London, E. C., Eng.

GENTLEMEN:—We have before us your favor of 10th inst. Will state that our advertisement of Tonga refers to a fluid extract of a compound of barks obtained through our own representative, who visited the Fiji Islands for this purpose. Whether it corresponds in composition to your own is a matter for which we cannot, of course, vouch, as we were not aware there was any secrecy connected with your preparation; we claim, however, that the

article which we have is known as Tonga; that it possesses the properties claimed for the article described by Dr. Murrell in the London Lancet; and that it corresponds in general characteristics with your own preparation.

Relative to your possession of trade-mark would state that while we were not positively aware that the name was thus claimed by you in England, we were aware that you had made application for a similar protection to the United States Government, and that said application had been refused on the ground that the name was that of a geographical locality, and therefore not patentable under the United States rulings. With this authority we had no hesitancy in advertising the article, especially as we are opposed to any protection of medical compounds as contrary to pharmacal science and ethics, bordering on charlatanism. We hand you herewith printed matter upon this subject which will make our position clear.

Very truly yours,
PARKE, DAVIS & Co.

Finding themselves defeated in this direction and in their application to the United States Patent Office, Allen & Hanburys brought suit against us through their representatives in New York, W. H. Schieffelin & Co., in the United States Circuit Court for the eastern district of Michigan for alleged infringement of trade-mark. This action is still in the Courts but believing that a result favorable to ourselves may be confidently anticipated we beg to state to our friends that in the case of any untoward result we shall protect them from damage in the sale of our preparation.

The grounds upon which we base our assumption that Allen & Hanburys have no rights in the case at issue are as follows:

First, that the only name of an article, being that only specification by which the article itself is known or described, is the common property of all and cannot be appropriated by any one individual to his own sole and exclusive use.

> There must be some word or sign or device other than a generic name and words descriptive of quality. (*Commissioner's decision*, 1881 page 97). So the words NIGHT BLOOMING CEREUS were held to be invalid as a mark, being the proper descriptive appella-

tion of the article. (*Phalon vs. Wright*, 5 Phila. 464). The same rule defeated the adoption of the words DESICCATED CODFISH. (*Harris Beebe & Co*). In the case of the "BALM OF A THOUSAND FLOWERS," Judge Duer, of New York, says:

"It is only the seductive name that they claim as their exclusive property and doubtless from their experience in its value in the extension of their sales.

"This, however, is a species of property which, in my opinion, is unknown to the law, and that can only be given to one by an infringement of the rights of all."

Recognized authorities have gone even further, and hold that where certain medicines are designated by the name of the inventor as a genuine term descriptive of a kind and class, the inventor is not entitled to the exclusive right of the compounding or vending them unless he has obtained a patent therefor; and if another person prepares such medicines of an inferior quality and sells them and by this means the medicines are brought into bad repute, such inventor can maintain no action for any loss sustained by him in consequence thereof unless they are sold as and for the medicines prepared by him. It has been repeatedly held that a trade-mark cannot be obtained in a name where it is the proper name for the article, as in the case of Schnapps, the subject of the controversy in "Wolfe vs. Goulard," or where it has by general use become the proper name of an article which all manufacturers may use, as in the case of Dr. Johnson's yellow ointment, Godfrey's cordial or essence of anchovies.

Second, that the name Tonga has been in use for centuries as the name of an island and a group of islands in the Pacific Ocean, as the name of a lizard found upon the shores of Madagascar, and as the name of a medicinal compound or liquor used by the natives of Peru.

Third, Allen & Hanburys claim in their bill that the de-

mand in America has been due to the result of their advertising expenditures, and that persons asking for fluid extract Tonga do so under the impression that they will receive the preparation of Allen & Hanburys. This assertion we absolutely deny, and our friends will no doubt bear us out in the statement that whatever demand in America has been created it has been due directly to our efforts, and that when Tonga is called for it is understood that our preparation is to be supplied.

As the result of this case will probably be of much interest to the trade at large, as illustrating how much protection is afforded by similar trade-marks which indicate the only known description of individual articles or preparations, we will take the liberty in the future, at the proper time, to afford each of our correspondents a full record of the points at issue and result of the case.

Yours Repectfully,
PARKE, DAVIS & CO.

DETROIT, October 18, 1881.

[CIRCULAR NO. 2.]

TONGA FREE TO SCIENCE!

ALLEN & HANBURYS vs. PARKE, DAVIS & CO.

The Complainants Discontinue their Bill, Assuming Costs.

TO WHOM IT MAY CONCERN.

Referring to our circular advice of Oct. 18, 1881, with reference to the action at law brought against us by Messrs. Allen & Hanburys, of London, for alleged infringement of their rights in our use of the word Tonga, we beg to call your attention to the following advice which we have received from our attorney:

DETROIT, MICH., Jan. 20th, 1882.

"MESSRS. PARKE, DAVIS & CO., city.

"GENTLEMEN:—In the case of Allen & Hanburys *vs.* Parke, Davis & Co. the complainants, on their own motion, obtained an order of court to dismiss bill of complaint with costs to be defrayed by themselves.

"This order was obtained after the defense had established, by the testimony of Dr. Frank E. Stewart and of Charles Rice, both of New York, that the word Tonga had long been known and had long ago been applied both to natural products and to medicinal preparations. It was thereby shown that the claims of complainants that they had invented the word Tonga and first applied it to medicinal preparations had no foundation in fact whatever."

This advice is rendered necessary to the trade in view of the threatening advertisement published in the columns of the *Oil, Paint and Drug Reporter*, of New York, a copy of which is hereto attached. (*Vide ante p. 6.*)

The absurdity of the claims of the complainants as to their ownership in this word, is fully established by their action in withdrawing the case and assuming costs thereof before we had completed the taking of evidence on our side of the case.

We regret exceedingly that the withdrawal of complainants has prevented us from establishing a record in the courts upon the mooted point "whether any one has a right to monopolize to themselves the exclusive use of the only name by which an article not patented, is known"—a point at issue involving privileges arrogated to themselves by the manufacturers of the so-called "patent" medicines hitherto supposed to have been protected under the laws relative to trade-marks. It was our intent to appeal the case to the supreme court, if necessary, until an equitable decision had been reached, but this action of plaintiffs prevents us from so doing. The stand that we have taken in this trade-mark controversy is the defense of *science, the patent*

laws and *public rights*--on the ground of common law and natural right. A patent is a contract between the inventor and the government, representing the public at large, in which the public grants to the inventor the exclusive use of his invention for a limited time, in exchange for the publication of full knowledge thereof whereby the public may manufacture the invention when the contract expires; and the right returns to the public who gave it. The patent law was designed to promote progress in science and the useful arts. Legitimate trade is now seriously injured by monopolists who, under a system of unfair protection, are enabled to supply the demand for medicine at small cost, and fictitious prices, and thus to float a great advertising system of error, by aid of the immense margin thus secured, thereby creating an artificial demand for their products, to the exclusion of standard articles of commerce. This monopoly only exists by the usurpation of public rights, for any article not patented is open to competition, and as no right has been granted by the public permitting an exclusive use of the so-called proprietary medicines, their manufacture and sale is free to all. Furthermore, the proper name of an article not patented cannot be a trade-mark; and the name of a thing, no matter whether a coined name, or a fanciful name, so long as it is the name by which the public designate the article when buying it (so the courts decide) is common property. And this applies to the name of an individual or firm, if incorporated in the name of an article, so that it is allowed to become by public use the proper name thereof, and thus part of the common language, for it is apparent that another manufacturer who has equal right to the use of the same thing is prevented from an equal chance with his fellow in its manufacture and sale, until some other name shall be equally incorporated in the language. It is to be hoped that the trade will finally unite with us in supporting the laws and their correct application.

Yours Respectfully,

PARKE, DAVIS & CO.

Dated, Detroit, Jan. 20, 1882.

LABEL USED BY ALLEN & HANBURYS.

TRADE  MARK.

Tonga

SPECIFIC FOR

NEURALGIA.

DOSE—A teaspoonful three times a day before meals.

MANUFACTURED FOR THE PROPRIETORS BY

ALLEN & HANBURYS,

PLOUGH COURT, LOMBARD STREET,

LONDON.

Price, 4/6

LABELS USED BY PARKE, DAVIS & CO.

FLUID EXTRACT TONGA.

TONGA.

Tonga is a composition of unknown barks compounded by the natives of the Fiji Islands for medicinal purposes. It was introduced to the notice of the medical profession by the distinguished therapeutists, Drs. Sidney Ringer and Wm. Murrell of London, as a remedy for neuralgia.

PROPERTIES.

This agent has long been employed by the natives of the Fiji Islands as a remedy for neuralgia. A supply of the crude drug was carried to England by a gentleman residing temporarily in Fiji and placed in the hands of a retail drug house in London. It was then tested therapeutically by Drs. Ringer and Murrell, and the results published in the London Lancet, March 6, 1880, pp. 360, 361, March 20, 1880, p. 445, and in the London Pharmaceutical Journal and Transactions, April, 1880. The scientific work of these investigators created a demand for the drug in this country which we sent to the Fiji Islands to supply. Our special agent was absent six months and returned successful from his mission. We then placed tonga on the American market and at a much less price than charged by the English house referred to. This house, it seems, was under the impression that they had a monopoly of the article which accounts for their exorbitant price and subsequent proceedings. They registered the word tonga as a trade-mark, and then brought action against us for infringement thereon. We held in defense that the proper name of a thing cannot be a trade-mark, and as tonga was not patented any one had a right to compete in its manufacture and sale. We also held that the word tonga had long been used to designate a medicinal preparation prior to the claim of the English house to have coined it. Finding themselves beaten they withdrew the suit, assuming costs, and prevented us from demonstrating our defense. Tonga is therefore free to science. For further particulars see our literature. The result of the experiments of Drs. Ringer and Murrell, which we will furnish in full detail on application, demonstrate conclusively the great value of this remedy in neuralgic affections, especially in those of the cranial nerves.

Dose of the fluid extract, 30 minims to a fluidrachm.

The other case did not end so favorably. The case of Mr. Bodenbach should be a warning to both professions with regard to the results of the proprietary medicine system. Any pharmacist or physician who dares to make, sell, or dispense a pharmaceutical preparation thus protected is liable to a similar fate as Mr. B., unless he has enough money to fight the monopoly, as in the former instance was the good fortune of the defendants. The medical and pharmaceutical professions should think twice before they resign their prerogatives of compounding and dispensing medicine, and treating the sick, to the exclusive control of the patent medicine business.

I quote from the editorial columns of the *Therapeutic Gazette*, April, 1882:

We copy the following from the Chicago *Pharmacist and Chemist* to illustrate the dangers of the abuse of the trade-mark laws to which we take such strong exceptions: Mr. Bodenbach, a reputable pharmacist of Buffalo, has been arrested for making syrup of Dover's powder because some patent medicine man claims the name as his trade-mark, and has been obliged to give bail to save himself from the felon's cell. Any other physician or pharmacist who dares to make this article and call it syrup of Dover's powder is liable to a similar fate. A like attempt was recently made to mulct Messrs. Parke, Davis & Co., for manufacturing fluid extract of Tonga, but the attacking party in the interests of the patent medicine trade were glad to beat a retreat. But the proper name of a thing cannot be a trade-mark, Commissioner Scroggs to the contrary notwithstanding, and Messrs. P., D. & Co. instruct us to say that they are ready to assist in the defense of Mr. Bodenbach to enable him to pursue his profession and defend his rights.

INTERESTING PROCEEDINGS.—Report of a case from the Buffalo *Express*:—"Christopher Bodenbach was yesterday arrested by a Deputy United States Marshal, on the complaint of Willis L. Gregory and Willis G. Gregory, charging him with infringing a certain trade-mark or name, which had been duly registered pursuant to the statute, namely, "Syrup of Dover's Powder." The defendant was subsequently arraigned before United States Commissioner Scroggs, pleaded not guilty, and

gave bail in $250 to appear for examination at 10 o'clock in the forenoon of the 31st inst."

Mr. Bodenbach is a respectable druggist, doing business at No. 942 Main street, in the city of Buffalo, N. Y. His years of study gave him no right to mix solutions of morphine and sulphate of potash, and to these add fluid extract of ipecac mixed with simple syrup! And for so doing he is taken as a felon and placed in jail! Now, if, as pharmacists, we cannot be allowed to produce "Syrup of Dover's Powder," what is the reason? Simply because of the trade-mark system, which, in a quasi manner, you are advocating."—*Pharmacist and Chemist.*

The result of this case, together with the final end of medical science under the proprietary medicine system is well illustrated by an editorial in the *Pharmacist and Chemist* for May, 1882.

THE DRUG STORE OF THE FUTURE.

Let us look ahead ten or twelve years and see ourselves as DRUGGISTS under the unchecked working of the trade-mark system. One of us, who has been out of business during these ten or twelve years, calls upon his old friend the druggist of that time and asks for the best physician in the neighborhood. The druggist answers: "Oh, there is no difference in any of them; they are all alike. You see things are different now from what they were when you were in the business —excuse me, *when you were a member of the profession.* We have dropped that term now and call it a business. You see the physicians have gradually worked into the plan of *asking the patient what is the matter with him*, and then by reference to a little pocket remedy book, well indexed, he finds the article that suits his case and prescribes it, and they all do the same. So I say they are all alike. You see the manufacturers have meetings every three months and add to and correct these lists. They have pooled the profits, and it don't make much difference to the manufacturers which articles are sold, as they all get their proportion of the profits. I have one of these books and will show how it reads. The title is, 'THE CONSOLIDATED TRADE-MARK MANUFACTURERS' MANUAL: *For Physicians Only.*' If a man says he is bilious, the

physician turns over to B, and follows down through Ba, Be, to Bi—there you have it: 'Biliousness; for all cases of biliousness use HYFALUTINE, PSEUDOCETINE, etc., etc. For *bad cases* use DUODENINE, etc.' You see the physician has a long list to choose from, and he selects the name that strikes his fancy and orders it for him. The druggist wraps up the article and charges him *the price he can get*, and the patient takes the medicine, the next time he feels the same way he calls for the same medicine, and we sell it. Oh, yes, it affects the income of the physician and our business somewhat, but what can we do? Away back in 1881–82 we made an effort to stop the encroachments of the trade-mark preparations; but owing to a lack of interest in the matter on the part of the physicians, who kept prescribing them, and the druggists, who continued to sell them, we failed to do anything; and if we could do no good then, what chance have we now? Our physicians have forgotten the old way of diagnosing a case for themselves, and the druggist of to-day knows nothing of pharmacy. Why, *we have not had a drug mill in this store for years.* My clerks are better posted in the kinds of leather in the shoes we sell, in the quality of calico, in the quality of crockery ware, than they are in the drugs; for, to tell the truth, we sell very little else in the drug line than these ready-prepared medicines. There are one or two old fossils here who prescribe outside of these, and they give us an endless amount of trouble. We have to make up *a pint of sarsaparilla syrup at a time*, and other preparations like that, just for their benefit. We tell them that the preparation known as ELUCIDINE is the same thing. He says, 'I won't have it. *I once subscribed to the code of ethics which barred those preparations, and I will not prescribe them* ON PRINCIPLE.' We laughingly tell them THERE IS NO PRINCIPLE IN MEDICINE, and that argument shuts him up. Happily, these cases are rare, and we will not be bothered with them long. We don't make these preparations, for the reason that we dare not. You see they are the personal property of the manufacturers, and prosecution follows swiftly on all attempts to encroach upon their ground. You remember, in 1882, Chas. Bodenbach, of Buffalo, was arrested for making

Syrup of Dover's Powder; he compromised, and promised not to make any more. Several other prosecutions by other manufacturers followed, and then all was serene. No one now attempts to make these preparations.

"What has become of the American Pharmaceutical Association? Well, it's hard to say. They held a meeting in 1881 and never met again. Some one offered a resolution to the effect that the trade-mark system was endangering the science of pharmacy, etc.; the trade-mark manufacturers were there in full force and opposed it. Prof. Maisch, Albert Ebert, and a few others, made a hard fight, but the lay members were indifferent, and the discussion raged so hard that the association disbanded *and the resolution did not pass.* The American Medical Association are in the same condition. They have not been heard of for years. You remember that one of their members offered a resolution at their meeting in Richmond, in 1881; this was laid over to be acted upon at their next meeting, in St. Paul, Minn.; this resolution was finally brought out and the discussion that followed was long and warm; I might say, *very warm.* There were some who vigorously upheld the resolution; one in particular, was that old fossil whom I spoke of as giving me so much bother. The opposers were so numerous and loud-spoken as to override the views of the weaker ones, and the war went on. Finally, the professors of many of the colleges, who had recommended these copyrighted or trade-marked preparations and been liberally advertised thereby, joined the opposition. This so incensed the others that they withdrew, and the American Medical Association vanished like a cloud. A Pharmacopœia? No, we have none; we don't need one; why, the edition of 1880 has not been published to this day. The only text-book we need now is the Manual and Price List of the Consolidated Trade-Mark Manufacturers."—*Phar. and Chem.*

The points with regard to the legitimacy of using proper or descriptive names as trade-marks, and thus mixing scientific nomenclature and ruining medical literature, was originally raised by the writer in the summer of 1880, and led to the resolution offered at the meeting of the American Medical Association, held at Richmond, May 3d, 1881. This res-

olution was offered by Prof. Dunster, of the University of Michigan, after the reading of my paper entitled, "The Materia Medica of the Future." The argument which supported it was to the effect that it was hardly to be presumed that two laws existed on our statute books so diametrically opposed as the patent and trade-mark laws appeared to be, providing the proprietary medicine trade is right in their interpretation of the trade-mark law. The patent law was devised to promote progress in science and the useful arts. It is a law to protect science, and to promote the diffusion of knowledge. The constitution of the United States gives Congress the power to promote the progress of science and the useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries, and also to make laws which shall be necessary and proper for carrying into execution the powers thus given. This is the end and aim of the patent law, and if that object is defeated by another law the anomalous position of two laws opposed to each other exists.

For a proper appreciation of this subject it is necessary to understand the basis upon which the patent law rests. A patent is a grant to the inventor of a right which he does not possess by nature. The natural right of man is the free use of knowledge, and the products of knowledge, whether of his own discovery or the discovery of others. This doctrine of natural right is well argued in Simond's Manual of the Patent Law, to which I would beg to refer you. But the patent law steps in, and under certain circumstances, and for good and sufficient reasons, deprives man of his natural right, and grants that right to the exclusive use of an individual. It is evident that the patent law interferes with the natural right of man, even if it be admitted that inventors have a natural right to their inventions, or the same kind as given by the statute irrespective of the law, for when the patent expires, the invention becomes common property. The patent law in the one case takes away for a time the right of the public to use the invention, and gives it to the inventor, or if the latter doctrine be correct the patent law finally robs the inventor of what belongs to him by nature.

But the common law recognizes that inventions are common property unless subject to the limited grant of a patent to the inventor. The proprietary medicines are not patented and are therefore common property, and the proprietary medicine trade is attempting to monopolize the property of the public.

Again, the patent law is scientific, but the policy of the proprietary medicine system is to lock up knowledge, and therefore unscientific. A patent is a contract between the public and the inventor of a new and useful art, manufacture, or composition of matter, whereby, in consideration of a complete disclosure of the invention, the exclusive right thereto, for a limited period, is granted to the inventor and his legal representatives. There is no law on our statute books that permits the monopoly of an article of commerce except the patent law, and that monopoly is for the purpose of promoting progress in science and the arts. The proprietary medicine system monopolizes both the thing itself and the knowledge of it, and is therefore unscientific, for progress in knowledge is impossible under the monopoly that it creates.

But, it is urged, anybody can make the same thing under another name, and therefore no control is had over the thing itself. It is only the name that is owned, and this ownership merely designates the manufacturer. Two good arguments disprove this fallacy. 1st. The fact that the immense monopolies of the proprietary medicine system exist, is an argument which alone disproves the assertion that the ownership of names only serves to designate a certain manufacturer of the article. It designates one manufacturer for the reason that all competition is prevented. 2d. The name of a thing, no matter what the name may be, as long as it is the name which the public employ to designate the article, becomes by use part of the common language. It is apparent that the ownership of the only name by which a thing is known to the public must prevent competition in its manufacture and sale, and that the maker of the same thing under another name would not be permitted to compete on equal terms with the inventor, (a thing he has a perfect right to do), until the new name with which he

should choose to describe the same article should have become equally incorporated in the language The great secret of the control of the proprietary medicine system lies in this, viz: Much capital is employed to advertise descriptive terms until they become part of the common language. After they become such, their ownership creates a monopoly of the article to which they apply. Let it be understood by the trade that descriptive names, no matter what these names may be, as long as they are the names that the public use in buying the article, always belong to the article, and that when the article itself is not controlled by a patent, the name by which it is known, and which is used by the public to describe it, is common property also, and the great monopoly known as the proprietary system would soon be reduced to the same basis as other trades.

I have formulated the position taken by those who are opposed to the proprietary medicine system as applied to pharmacy in the *Pharmacist and Chemist*, for May, 1882, as follows·

"Many of the articles advertised in the medical journals, claiming to be pharmaceuticals, cannot be admitted into the Pharmacopœia or accepted in scientific literature for the reason that the names of these preparations are claimed as private property, and their formulæ, and art of manufacture, are nowhere published but are things of trade secrecy. The pharmacy of these articles, therefore, is in danger of becoming a lost art, and their disappearance from existence is merely a question of time. What will be the effect on the literature of medicine if medicinal preparations, the names of which are incorporated in the medical text-books, no longer exist in the next century? We hold that every new preparation introduced should be provided with a proper name, and that its formula should be published in standard literature in such a manner as will enable that any one else to manufacture the article, so that the pharmacy of the nineteenth century may have a place in history.

We have no objections to an author's copyrighting his book, as his doing so does not prevent anyone else from writing another book on the same subject, or in any way prevent the free

diffusion of knowledge. We do not object to a pharmacist patenting his machinery, apparatus or processes, or to a physician patenting his instruments, believing that the patent law was designed to stimulate inventors to invent, and to publish their inventions, for the purpose of promoting progress in science and the arts; the patent law does not lock up knowledge, and the inventions *finally becomes public property.* We do notobject to that just protection given to the manufacturer of a known article by the use of a trade-mark to designate *his brand from all other brands of the same article*, but we do most earnestly protest against that abuse in which the common or only name of an article is claimed as a trade-mark, the article itself monopolized forever in consequence, and the nomenclature of pharmacy ruined thereby. As it is a recognized action in law that a descriptive name cannot be a trade-mark, it would seem to us that the names claimed as such in the cases referred to, where the articles are not accompanied by proper names, become by use the proper designation, and that the manufacturers of these compounds will find to their sorrow, when the matter comes to a legal test, that the Supreme Court will decide against them. These points are of great importance to science, to legitimate trade and to the public at large.

Our attempt is to put Pharmacy on such a basis that it can be regarded as scientific, and that it may be accepted by the Pharmacopœia and in scientific literature."

The resolution offered at Richmond is, therefore, founded on right and just principles. While allowing the use of patents and trade-marks as applied to known articles it repudiates the proprietary medicine system with its alleged ownership of descriptive names, and its secret formula system. The resolution has back of it natural right and common law, and the code of ethics of this association. In every sense of the word its principles are ethical and right.

The Richmond resolution reads as follows:

Resolved, That the spirit of the Code of Ethics forbids a physician from prescribing a remedy controlled by a patent, copyright or trade-mark. This, however, shall except a patent upon a process of manufacture, or upon the machinery for the manufacture, provided the patent be not used to prevent legi-

timate competition, and shall also except the use of a trade-mark used to designate a brand of manufacture, provided that the article so marked be accompanied by working formulæ, duly sworn to, and also by a technical name under which any one can compete in the manufacture of the same.

This resolution refers to the clause in the Code of Ethics of the American Medical Association under the head of the duties of physicians to each other, and to the profession at large, which reads as follows:

Equally derogatory to professional character is it for a physician to hold a patent for any surgical instrument or medicine; or to dispense a secret *nostrum*, whether it be the composition or exclusive property of himself or of others. For, if such nostrum be of real efficacy, any concealment regarding it is inconsistent with beneficence and professional liberality; and, if mystery alone give it value and importance, such craft implies either disgraceful ignorance or fraudulent avarice. It is also reprehensible for physicians to give certificates attesting the efficacy of patent or secret medicines, or in any way to promote the use of them.

My paper, entitled "The Materia Medica of the Future," in connection with which this resolution was offered by Professor Dunster, was read before the Section on Practice of Medicine, Materia Medica, and Physiology, and by them adopted and referred to the general session. On motion of Dr. Toner, the resolution was referred to the Judicial Council to be acted on the following year according to the Constitution and By-Laws of the Association.

This, then, is the abuse which we are fighting. I say we, for I do not stand alone in the matter. During the past year the Professions of Medicine and Pharmacy have more than once asserted themselves against it, and in favor of reform. Several State Medical Societies, and a number of Pharmaceutical Societies likewise have expressed their disapprobation of the Proprietary Medicine system by passing stringent resolutions on the subject. Much progress in the right direction can be reported, and the Medical and Pharmaceutical press are awake.

The question now is, how can the abuse be corrected? This question I propose to answer by suggesting a system for scientific work in Pharmacology which has been carefully

studied in its relations to science, to trade, and to the Professions of Medicine and Pharmacy. A great field is open for scientific work by both professions, and by working in this field scientifically, harmony may be restored between the two professions, progress will be promoted in the knowledge of drugs, and trade will be benefited by the increased demand created for the valuable discoveries of investigation.

Correct teaching with regard to the patent trade-mark and copyright laws, and their correct application by the patent office, and by the courts, will soon correct the Proprietary Medicine abuse, as far as its legal bearing is concerned, and reduce it to a mere system of secrecy. These secret medicines can then be investigated by the trade, and those that are worth it can be marketed under a system of legitimate competition properly protected by trade-marks to designate the various brands of manufacturer. Competition in quality will thus be engendered, and the trade-mark will denote which manufacturer can make the best article. The trade-mark will thus become what was intended, viz., a mark to designate the manufacturer, to imitate which is to counterfeit a commercial signature and defraud the public.

THE NEW SCIENCE.

I have before me, on the table, a working bulletin for the scientific investigation of Quebracho. It reads as follows:

WORKING BULLETIN

FOR THE SCIENTIFIC INVESTIGATION OF

QUEBRACHO.

(ASPIDOSPERMA QUEBRACHO.)

A PLAN TO PROMOTE PROGRESS IN THE SCIENCE OF PHARMACOLOGY.

This working bulletin, accompanied by the drug to be investigated, or a preparation of the same, or both, as the circumstances require, is distributed gratuitously to the Colleges, Universities, and other institutions engaged in scientific work, and to the government hospitals, and public hospitals and dispensaries, and to the medical profession at large, to obtain the results of the drug in treating the sick.

The object is to promote original investigation in the science of drugs. This we propose to do by furnishing gratuitously to those engaged in original research, material for investigation, and by publishing the results of the same

as a donation to scientific literature. It is apparent that the only return which we can receive for this work is the increased demand for the valuable drugs which we are introducing to science, for we guarantee to publish full reports, favorable or otherwise.

Articles in relation to the drug, under the following heads embraced by the pharmacology, are requested for the THERAPEUTIC GAZETTE, the organ which represents this new system of work. These heads form the classification of this bulletin. In regard to each drug investigated we solicit reports for publication upon the subjects of scientific name; synonyms; definition; natural order; botanical origin; history; commerce; production; cultivation; description; microscopical structure; chemical composition; uses (in medicine); adulterations and substitutions; pharmaceutical preparations and dose; antagonists and incompatables; synergists; physiological action; therapeutic properties; toxicology and antidotes.

At the end of the year the reports published in the GAZETTE will be collected, classified, and published in the form of an ANNUAL REPORT, which will be donated to the libraries of the Smithsonian Institute, a government institute at Washington for the free diffusion of knowledge; and a sample of the drug, and our preparation of it, will be deposited in the National Museum, in the department delegated to pharmacology.

SENT OUT BY

THE SCIENTIFIC DEPARTMENT OF

PARKE, DAVIS & CO.

Manufacturing Chemists, Detroit, Mich., U. S. A.

This bulletin system embraces a plan to promote progress in the Science of Pharmacology, and is the new system to which I wish to call the attention of the Professions of Medicine and Pharmacy. Pharmacology is the science of drugs.* It professes to exhibit what is actually known or may be learned concerning drugs in the forms of science, viz.: in the forms of exact observation, precise definition, fixed terminology, classified arrangement, and rational explanation. This science, therefore, embraces in classified forms, Materia Medica, or the substances employed in medicine, Pharmacy, or the preparation of medicine, and Therapeutics, or the application of medicine to the cure of disease.

The Science of Pharmacology includes knowledge of Botany, Agriculture, History, Chemistry, Microscopy, Toxicology, Pharmacy, Physiology, and Therapeutics. A knowledge of Botany is required to identify, and properly classify, medicinal plants; a knowledge of Agriculture to understand their cultivation; a knowledge of History to compare them with each other with regard to their relative importance as

*This definition of what is necessary to constitute a science is drawn from Porter's Psychology.

remedial agents; a knowledge of Chemistry to investigate their active principles; a knowledge of Microscopy to determine their structure, and for the purposes of identifying drugs, and preventing adulteration and substitution; a knowledge of Toxicology to determine their properties as poisons; a knowledge of Pharmacy to prepare them aright; a knowledge of Physiology to determine their physiological actions; and a knowledge of Therapeutics to ascertain their therapeutic properties. This knowledge, classified into the forms of science. and protected by a definite, changeless nomenclature; constitutes Pharmacology or the Science of Drugs.*

A vast field is here opened for scientific work, and the working bulletin system was devised to promote progress therein. It is proposed that the two professions adopt a plan for co-operative work to benefit this science. By doing so employment will at once be given to educated Physicians, Pharmacists, Chemists, Physiologists, Microscopists, and others who are engaged in scientific work in branches pertaining to drugs. It is then suggested that a pharmaceutical collection be placed in the National Museum, at Washington, which shall represent the donation of the United States to this science. The expense of this work is to be met by the demand created for valuable drugs by this investigation, and by means of it inert drugs can be culled from our Pharmacopœia, and for them substituted a list upon which more dependence can be placed.

This investigation can be carried out by means of the facilities that are in the hands of the great trade houses of this country. The amount of money spent by them in advertising turned into the channels of scientific work on the Materia Medica, would not only immortalize them, but be of the greatest service to mankind.

It is my suggestion, therefore, that these houses now engaged in the manufacture of Proprietary Pharmaceuticals, recognizing the damage which they are doing to scientific nomenclature, to the Pharmacopœia, and to medical literature, renounce their proprietaryship to these articles, and publish their true formulæ for the benefit of science. And then I

would suggest that they turn their attention to scientific work in the field of Pharmacology, and that the Medical Profession coöperate with this end in view.

What Pharmacology stands in most need of is methods of exact observation in its various branches, and the classification of the results into scientific literature. My design is that a "Working Bulletin" should be a compilation of all the work on a drug or the preparation of the same, properly classified in the forms of science, to be distributed to the professions for the purpose of informing them what has already been done, and to aid them in further work. Connected with the Bulletin should be a periodical journal devoted to reporting original work, which reports, at the end of each year, should be incorporated with the bulletin, and the whole compilation published in book form as an annual report. A large amount of literature can thus be collected which shall represent the scientific work of those engaged in the different branches connected with this science in all parts of the world, and when sufficient amount has been accumulated to warrant the writing of a new work on Materia Medica, and Therapeutics, this compilation will furnish an admirable foundation for it.

It is purposed that the "Working Bulletin," accompanied by the drug or preparation to be investigated should be distributed gratuitously to the Colleges, Universities and other institutions provided with Chemical, Physiological and Microscopical Laboratories, and that these institutions take them up for investigation. Much work in organic chemistry and also with the microscope, is being done by a number of the Universities, while several have Physiological Laboratories connected with them. These Laboratories, by working on drugs thus sent to them, and reporting the results of the same to the periodical journals, can be made of immediate and very practical use to the Profession. It is proposed that the trade furnish the means for this work and receive their pay in the legitimate advertising thus received, both for the houses who do this, and for the individual drugs and preparations thus worked up. A demand would at once be created for everything of value, and the trade will receive the benefit of

it. The final result will be that the trade would require the services of experts in all the branches connected with the Pharmacology, and a place would thus be provided for the Chemists, Pharmacists, etc., etc., who now graduate from the various schools, and find that there is but little demand for their services.

As before said, it is suggested that these houses publish scientific journals, and receive pay for the same in a well-filled subscription list from the professions of Pharmacy and Medicine. The workman is worthy of his hire, and the trade should receive due credit and proper return for the work that it may do. Let each house, therefore, publish a journal, or let several houses co-operate, and publish a journal together, or let them donate this valuable literature to the medical press of the country. Thus would Pharmacology win for itself a place in scientific literature, and progress be promoted in this department of science and the useful arts connected therewith, the art of pharmacy rescued from the oblivion into which it is falling, a literature be established for it, and the Pharmacopœia become truly the official list of the drugs and their preparations, used by the medical profession in treating the sick.

It has been said by high authority that it is almost self-evident, or at any rate readily susceptible of proof, that the magnificent material prosperity of the United States of America is directly traceable to wise patent laws and their kindly construction by the courts. "The theory of the law is, that the promotion of science and the useful arts is of great benefit to society at large, and that such promotion can be attained by securing to inventors and authors, for limited times, the exclusive right to their inventions and writings." That such theory is correct it is hardly necessary to say. Simond in his Manual explains the way progress is promoted by the patent law. It is in at least two ways: "First, by stimulating inventors to constant and persistent effort, in hope of producing some financially valuable invention, and, second, by protecting the investment of capital in the working and development of a new invention from interference and competition till the investment becomes remunerative. A patent is a contract between the inventor and the Government representing the

public at large. The consideration moving from the inventor is the production of a new and useful thing, and the giving to the public of a full knowledge thereof by means of a proper application of a patent, whereby the public is enabled to practice the invention when the patent expires. The consideration moving from the Government is the grant of an exclusive right for a limited time, and this grant the Government protects and enforces through its Courts." It would seem to be a matter of right, and of policy as well, to recognize the correctness of the theory of the patent law, and to accept it both in theory and practice as applied to medical inventions. The writer, therefore, holds, and with all the light that he has yet been enabled to obtain on this subject, believes himself to be correct in his position, that the acceptance of the patent law by the medical profession, and its correct application, would benefit medical science as much as any other science. His position is therefore this: "That any person who has invented or discovered any *new* and *useful* art, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this, or in any foreign country, before his invention or discovery thereof, and not in public use, or on sale for more than two years prior to his application, unless the same is proved to have been abandoned," shall, "upon payment of the duty required by law, and other proceedings had," be permitted to "obtain a patent therefore."

It is a mistake to call proprietary medicines worthless, for, on the contrary, many of them are doubtless valuable compounds. But just to the extent that they are of value is the system under which they are marketed a dangerous one to science, and to the trade. It is not the articles themselves, that necessarily comes under the ban, but the proprietary medicine system. If an invention is made in the arts the inventor should be protected, but he should not be permitted to monopolize forever both the invention, and all exact knowledge concerning it Unless invention is proved, and that the invention is new and useful, there is no principle in law, or in common justice, that a person should allege a great discovery,

and create an immense demand for it by advertising what may prove a fraud. Protection of this kind is too often protection to fraud. Neither should an exclusive control be granted for the manufacture and sale of a compound of old and well known drugs, for such compounding is merely the aggregation done every day by the physician in writing his prescription, and by the apothecary in preparing the same, and such a patent would hinder progress in science by interfering with the prerogatives of the professions of medicine and pharmacy. The art of pharmacy would soon be locked up to the monopoly of a few manufacturing houses by such a procedure, and a doctor or druggist who should be so unfortunate as to infringe on the patent in the performance of his duties would be liable to law. Think of a physician handicapped in such a way that he dare not write an extemporaneous prescription for fear of infringing on a patent. A patent on a combination of matter should never be given without abundant proof that such combination fulfills in every way all the requirments of the patent law, and expert Pharmacists and Physicians should be appointed to position in the patent office as judges with regard to whether the granting of a patent in each case will promote progress in the science of medicine, and the useful art of pharmacy, and unless the theory of the law can be carried out, and the public benefitted by so doing a patent should never be granted

To test drugs, or preparations of the same, for the purpose of ascertaining their value in treating the sick, they should be sent to the hospitals and dispensaries, and to the profession at large, that they may be put at once in general use and the results reported for the benefit of science. It has been argued that the profession is not justified in thus experimenting with the sick. This is a peculiar argument, coming as it does from the Proprietary Medicine trade. If a profession of educated men, skilled in the knowledge of disease and its treatment, are not justified in experimenting with new remedies, under proper conditions and with care, how much greater is the danger to the public who are dosing themselves with secret nostrums, and with no knowledge of the first principles of pathology or therapeutics? Better, by far, place such

matters in the hands of competent men, where they belong, and let them use judgment in employing them as they think proper. The results of their work will make a valuable chapter in pharmacological literature, as reference to the working bulletin on Quebracho will show. Comparative tests should be instituted for the purpose of ascertaining the true therapeutic position of both old and new drugs, and our Materia Medica should be cleared of the worthless lumber which encumbers it.

Finally, I would suggest that a collection be formed at the National Museum which shall represent the results of all of the work done on drugs. Let it not only comprise the drug itself, and a pharmaceutical preparation of it, but fine microscopical sections, chemical preparations of it, and a complete herbarium of all medicinal plants properly classified. To promote progress in botanical work, a department at the Agricultural Department for the cultivation of medicinal plants, if it does not already exist, would be of much service. By doing such work at Washington, and utilizing the scientific departments of the Government, much might be accomplished otherwise impossible.