The Journal of the American Pharmaceutical Association

Volume I DECEMBER, 1912 No. 12

Office of Publication, 79-89 North Third St., Columbus, Ohio.

Subscription, $3.00 per annum, within the United States. To Canada, $3.35. To other foreign countries in Postal Union, $3.50 per annum. Single copies, twenty-five cents.

Entered at the Postoffice at Columbus, Ohio, as Second-Class matter.

Papers and communications for insertion in the JOURNAL should be sent to the Editor, James H. Beal, Scio, Ohio. Subscriptions should be sent to the Treasurer, H. M. Whelpley, 2342 Albion Place, St. Louis, Mo.

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PROTECTED MEDICINES AND THE PHARMACOPOEIA.

FROM time beyond memory, the medical profession has—in theory at least—condemned the use of medicines of secret composition, or those which were otherwise protected so that they could not be prepared by anyone possessing the requisite technical knowledge and skill.

Reflecting this traditional attitude of the profession the U. S. P. has hitherto, with few exceptions (as in the case of phenacetin) refused recognition to such protected substances, in which respect it has been rather more rigid than some other national pharmacopoeias. (See November Journal, p. 1301.)

The sentiment of the Convention of 1910 is expressed in the recommendation that "no substance or combination of substances shall be admitted if the composition or mode of manufacture thereof be kept secret, or if it be controlled by unlimited proprietary or patent rights."*

So much for theory, but in this case as in so many other things where the actions of humans are concerned, practice has not always squared with theory.

For example, it is not unusual for physicians who have subscribed to the code of ethics and who have voted for resolutions condemning patent or secret preparations to prescribe and use remedies belonging to the class they have thus condemned, and in fact it is not difficult to find in papers read before societies that

* It is worth noting, however, that this declaration is recommendatory, not mandatory, and therefore, that the General Committee of Revision might do as did the last Committee of Revision, when, in the exercise of its discretionary powers, it disregarded a recommendation of the Convention of 1900 which affected the admission of diphtheria antitoxin.

have fulminated against such preparations frequent reports of the clinical use of and professional endorsements of the supposedly interdicted articles.

Judged by the practice of the profession this old doctrine is in the class with certain of the articles of faith in some church creeds, a mere form of words which no one any longer believes in, but to which the candidate is required to express his assent before he can be admitted to the circle of the elect.

At any rate when the physician stands by the bedside of his patient he is not likely to permit an academic doctrine to stand in the way of administering the remedy which he deems most suitable to the occasion, and in thus asserting his liberty to select the therapeutic agent which his judgment approves as the best his practice squares with common sense and the dictates of humanity, even if it fractures every rule in the code of ethics. To do otherwise would not only violate the trust of the patient, who cares naught for patents or professional codes, but would come perilously near to placing the physician in a medical sect—a sect which bases its selection of remedial agents upon some other quality than their therapeutic efficiency as determined by clinical experience.

Considered from the altruistic standpoint alone, the doctrine that the physician should dedicate his discoveries freely to all mankind is entirely praiseworthy, but as proved by experience, any attempt to enforce it as a general rule of action must be futile, if for no other reason than that it requires a sacrifice on the part of the discoverer of a medicine that is required of no one else. If this be not reason enough, we have the additional very practical consideration that the American patent law is not likely ever to make any material distinction between new and useful compositions of matter intended for medicinal uses and those intended for other purposes.

We can cheerfully grant that the discoverer of a valuable therapeutic agent is entitled to the gratitude of his fellowmen if he declines to accept a monopoly of it through patent or otherwise, but by no means does it follow that if he does accept such protection he should thereby become the subject of universal reprobation.

We do not condemn the physician who accepts a fee for prescribing a remedy, nor the pharmacist who makes a charge for compounding it. Why then should we condemn the inventor or discoverer of the remedy for accepting a reward?

Owing to the activity of the synthetic and biologic chemists and the constantly increasing importance of their products, there is now a longer list of really valuable articles of materia medica outside of the official fold than at any previous period, and if the traditional policy of the non-recognition of protected products is adhered to it is easy to foresee a time when perhaps a majority of the most frequently used therapeutic agents will be outside the official list.

We are thus called upon to decide the very practical question of whether we shall continue our adherence to an ancient doctrine—no doubt entirely admirable from a humanitarian standpoint, but purely academic nevertheless—and thus have a pharmacopoeia which shall be valuable mainly as a historical document, or whether we shall bow to practical and economic necessities and make a pharmacopoeia which shall reflect actualities in the practice of medicine and pharmacy.

So far as the fortunes of the products themselves are concerned their admiss-

ion or exclusion would probably have but little effect, and such effect as it did have would probably be salutary.

The recognition of a substance would no doubt give it some little additional prestige, but it should be remembered that it would not be considered for admission until after it had attained such wide-spread professional recognition that its inclusion in the official list could add but little to its reputation.

On the other hand such official recognition, while it could not limit the proprietor's right to manufacture and sell his product, would give a certain degree of control over it and over the name by which it would be generally known in pharmacy and medicine after the patentee's rights had expired.

Without official recognition the manufacturer is a law unto himself, and may fix or change the standard of purity and strength of his product to suit himself. But the Pharmacopœia can declare the degree of purity and concentration, and the physical appearance which the Committee of Revision regards as appropriate, as well of a patented as of an unpatented product, and can also designate the names and synonyms under which it may be prescribed, and thus exert a very considerable control for good over such products without affecting the patentee's legal monopoly in the slightest degree.

It is true that the proprietor might refuse to market a product of the quality described in the Pharmacopœia, but if the standards were reasonable, as they would be, it is not at all likely that he would risk the professional opposition and loss of prestige which such a course would certainly insure.

In the light of these things would it not be wiser to make a frank recognition of the right to the protection of therapeutic discoveries—since we cannot prevent it in any event—and concentrate our attention upon the correction of that anomalous feature of our patent laws that permits a foreigner to obtain greater privileges in this country than his own country would grant him—a generosity which he usually rewards by charging the citizens of the United States from two to eight times as much for his wares as the citizens of all the rest of the world can buy them for?

J. H. BEAL.