

licable, in order to spare the men; but France and England insisted that the mau-test was the only safe test, and so the man-test was



The Mask in Use.

made. There are men in the Chemical Warfare Service whose heart and lung actions have shown decided deterioration as the result of

their work in testing masks with actual gas."

When the armistice was signed, Sergeant Fischelis said, the factory had just perfected a new mask which was proof against the newest and most insidious gas employed by the Germans—a smoke gas, so-called, which could penetrate the charcoal mass used in the masks. This gas he described as really very fine particles of a poisonous substance which entered into the molecular spaces of the charcoal and thence was drawn into the lungs. It presented a new problem, which was finally solved by enclosing the canister of the mask, containing the charcoal, in felt. The felt excluded the smoke gas. This mask, he said, was deemed proof against any gas that the Germans might be able to devise. Quantity production was ready to start on November 4, last; then came the signing of the armistice.

Dr. Fischelis was given a rising vote of thanks for his excellent and carefully given presentation. Discussion of his lecture was lively and was participated in by Messrs. England, Lowe, Stroup, and others. Private Trautwine, of the Chemical Service Section, spoke interestingly of certain phases of the gas production in this country and stated that he would have offered some still more interesting data, were he wearing a red discharge stripe on his coat sleeve. He was still in the service, however, and revealed nothing that he was not supposed or allowed to.

The meeting, the best attended of the season, adjourned at 11 P.M.

IVOR GRIFFITH,
Secretary.

COMMITTEE REPORTS

REPORT OF THE COMMITTEE ON PATENTS AND TRADEMARKS.*

BY F. E. STEWART, *Chairman.*

Your committee is presenting conclusions in this year's report consisting of concrete statements of the facts and principles presented in former reports. Our reports have been, in a general sense, a protest against the invasion of the pharmaceutical field by the nostrum manufacturers and commercial drug business, and the degradation of the pharmacist to the level of a petty shopkeeper acting as mere sales agents for materia medica products and preparations manufactured under the control of unlicensed practitioners of medicine and pharmacy. We see in this commercialization of what ought to be a professional calling the ruin of all we have been working and hoping for, namely, the restoration of pharmacy to its true position as a branch of medical science and practice working in coöperation with the medical profession in its altruistic service of preventing disease, relieving suffering, and healing the sick—working, not as competitors, but as co-partners, each working in its particular field of practice.

* Abstract of report presented before Section on Legislation and Education, A. Ph. A., Chicago meeting, 1918.

CONCLUSIONS.

(1) The right to imitate or copy the published writings and inventions and discoveries of others is a public right, upon the proper exercise of which civilization in a great measure, depends. Those who attempt by unfair means, to prevent the public from exercising this right are appropriating what does not belong to them and are robbing the public.

(2) The Constitution of the United States (Article I, Section VIII, Clause 8) gives Congress the power to promote progress in science and useful arts by granting authors and inventors the right to the exclusive use of their respective writings and discoveries for limited times; but such grants should never be made except in compliance with the copyright and patent laws and never conferred without adequate proof that these terms have been complied with in such manner as to attain the object above mentioned.

(3) The granting of patents for ready-made prescriptions, consisting of mere aggregations of old and well-known drugs, showing in their inception and preparation no greater skill than naturally to be expected from skilled physicians and pharmacists in the regular routine of practice, hinders progress in medical science and in the useful arts of pharmacy and drug therapy. Moreover, such patents promote self-medication by people who are unacquainted with the nature of disease, and drugs and their uses, who are also incapable of making a diagnosis, are not skilled in the treatment of the sick, and who, depending upon the misleading claims made by the recommendations of manufacturers and dealers in drugs, often neglect to obtain proper medical aid until it is too late to be of service.

(4) The granting of patents for hitherto unproduced chemical substances, merely because they have hitherto been unproduced, and without proper consideration as to whether they are *new* and *useful* inventions, in the proper meaning of the patent law, and without proof that they possess sufficient value to warrant granting to their alleged inventors the valuable privileges pertaining to patent grants, is contrary to wise public policy and should not be permitted.

(5) The advertising of substances as therapeutic inventions, or inventions for nutriment, when they are not inventions in fact, and therefore unworthy of patent protection, promotes unfair competition in trade, and is a fraud upon the public. As this fraud is common, and its existence well known to the public at large, the Patent Office in granting patents for such alleged inventions without proper investigation, becomes partner in a crime against humanity.

(6) The registration of names as trademarks which are to be used afterwards and advertised as the names of the articles themselves, creates and fosters unfair monopoly in the manufacture and sales of such articles, and thus hinders progress in commerce and the arts. As names are not proper subjects of patent or copyright, and as there is no law which grants ownership in names, whether such names are invented or coined or not, such registration inculcates false ideas in regard to the objects and nature of copyright and patent grants, causes confusion in the public mind, and, as each case must be fought out in the courts on its merits, when injunctions are brought for infringements of trademarks, the registration of names which afterwards become currently used as the names of the products themselves, practically creates a *secret* patent system, perpetual in character, whereby the inventors of nothing but names are enabled to obtain monopoly privileges, far more restrictive and valuable than inventors of new and useful inventions are permitted to obtain by patents.

(7) Scientific and professional requirements necessary to observe in rendering the altruistic service which the public has a right to demand in exchange for granting practitioners of medicine and pharmacy exclusive privileges in conducting their respective vocations, necessitates special education and training, and also requires conformance with the rules of practice laid down by these professions for the guidance of members in their relations to each other and to the public at large. These rules obligate members of these closely related and mutually dependent vocations to donate the results of their observations and experiences to the common fund of knowledge, receiving in exchange therefor, the right to freely use the knowledge obtained by the entire profession in carrying out its beneficent work. Therefore, the proper introduction of therapeutic agents to science requires coöperation between competent physicians, pharmacists, chemists, pharmacologists, and clinicians associated with the medical and pharmaceutical schools and colleges; also the coöperation of the professional societies and professional press. Furthermore, these requirements demand that the source or genesis, physical, chemical, physiological and therapeutic properties of each new substance, or "composition of matter," introduced as a

therapeutic agent, shall be published in scientific literature, and impartially discussed by the professional societies and professional press for the purpose of freeing such knowledge from pretense and error; and, furthermore, as therapeutic verdicts can only be obtained as a result of observations carried on under conditions of environment, which eliminate as far as possible the personal equation, and influences of climate, race and social conditions, this altruistic work cannot be properly accomplished when alleged therapeutic inventions are undergoing commercial introduction by advertising. As this research work is carried on in public institutions largely supported by public funds, and as the use of these public institutions for advertising purposes practically converts the entire educational machinery of medicine and pharmacy into a great advertising bureau for the exploitation of such alleged new products, it therefore follows that therapeutic inventions should never be introduced by advertising, but should be left free to science and their manufacture open to competition.

(8) Owing to the fact that commerce in materia medica products is essential to the obtaining of supplies for the use of the medical and pharmaceutical professions in carrying on their respective altruistic vocations, and also required to meet the legitimate demands of the public for domestic practice, the employment of proper commercial methods, including advertising of brands, is not to be condemned. Brands of products may be properly protected by process patents or the registration of brand marks, or word trademarks, provided such word trademarks are used as such, and not employed as the names of the products themselves. Consequently, the name of the product should always appear on the label together with the word trademark, when such is used, and the latter should be displayed in such manner as to clearly indicate that it is intended as a word trademark, and not intended as a generic designation.

For example, "Eagle Brand" condensed milk is advertised in the reading pages of the medical and pharmaceutical journals without interfering with the impartial discussion of condensed milk in the reading columns. But it is apparent that the impartial discussion of the "Eagle Brand Condensed Milk" in the reading columns is an entirely different matter. Discussions relating to the food value or methods of manufacturing condensed milk do not relate to the brand of condensed milk manufactured by Borden, but to condensed milk itself. Consideration of brands, except for special purposes which should be made plain to the reader, belong to the advertising columns exclusively, and the manufacturer should pay for the advertising space, which in this instance, is doubtless the case. No producer should ask publishers to donate free space in their reading columns for advertisements. This is unfair to all concerned, for it misleads the reader, gives unfair advantage to one advertiser at the expense of other advertisers, and throws an unnecessary burden of expense upon the publisher. This example is important for it brings out clearly the unfair advantages demanded by the commercial introducers of monopolized materia medica products claimed by them as new and useful therapeutic inventions. These unfair methods seriously hinder the introduction of such products to science by preventing proper coöperation between medical scientists and the manufacturers engaged in the pharmacal, and pharmaco-chemical industries.

Finally, your committee, in its various reports, has endeavored to present the reasons why the medical profession, and medical scientists, object to the monopoly of therapeutic agents. We have endeavored to emphasize the fact that there can never be proper coöperation between the educational institutions engaged in the teaching of materia medica and drug-therapy, and manufacturers and dealers in materia medica supplies, except upon a professional basis which recognizes the altruistic character of professional service and conforms thereto. We have called your attention to the close relationship that ought to exist between the medical and pharmaceutical professions, and endeavored to show that pharmacy cannot exist as a profession when separated from medicine and conducted as a purely commercial vocation. We have pointed out the fact that the attempt to convert pharmacy into a purely commercial vocation means the degradation of the pharmacist to the level of a petty shop-keeper, the downfall of the pharmaceutical educational system and the colleges of pharmacy, the doing away with the boards of pharmacy and their examinations and licenses to practice, and the depriving of the medical profession and the public of the services which educated pharmacists should render as members of a profession which, under the guidance of proper rules, might become what its advocates have so longed hoped and worked for, *i. e.*, a profession in fact as well as in name. In this connection we have endeavored to show that one of the reasons why pharmacy has not "come into its own" is because of the abuses of the patent and trademark laws, and the unfair monopolies of materia

medica products and preparations obtained by unlicensed practitioners, who have taken advantage of these abuses to protect capital employed in a commercial drug business carried on in competition with licensed practitioners of medicine and pharmacy, and using unfair commercial methods, including misleading advertising, injurious alike to legitimate practice and the public welfare. In proof of all this your committee has furnished evidence which has not been controverted, and is believed to be incontrovertible, and now rests its case with the suggestion that this report, together with the previous reports of this committee, and of the special committee on national legislation for the years which deal largely with the same subjects, be referred to the National Research Council at Washington for consideration and proper action.

COUNCIL BUSINESS

- A. PH. A. COUNCIL LETTER NO. 9. No. 63. Max S. Adler, 219 Verne Street, Philadelphia, January 11, 1919. Tampa, Fla., rec. by D. E. Murphy and M. M. Taylor.
- PHILADELPHIA, January 11, 1919.
- To THE MEMBERS OF THE COUNCIL:
- Motion No. 11 (Resignation of Hugo Schaefer as Secretary of Scientific Section) and Motion No. 12 (Appropriation of \$25 for Expenses of Committee on Local Branches) have each received a majority of affirmative votes.*
- A. G. DuMez of Washington, D. C., has been nominated by E. N. Gathercoal as Secretary of the Scientific Section. The nomination has been seconded by W. B. Day. Are there further nominations?
- Motion No. 13 (Election of Members). You are requested to vote on the following applications for membership:*
- No. 56. Rene R. Oca, Separacion 40, Santo Domingo City, Dominican Republic, rec. by Dr. A. Rodriguez and Rene Rodriguez.
- No. 57. John Anderson, c/o E. R. Squibb & Son, New Brunswick, N. J., rec. by Charles H. LaWall and Wm. B. Day.
- No. 58. Henry Edward Bowles, 240 E. Center St., Pocatello, Idaho, rec. by H. H. Whittlesey and Wm. B. Day.
- No. 59. Alvah J. Pope, Cor. Central Ave. and E. 33rd St., Cleveland, Ohio, rec. by Wm. B. Day and J. W. England.
- No. 60. Hjalmar Gustaf Anderson Tesch, Soedertelje, Sweden, rec. by A. R. L. Dohme and H. Englehardt.
- No. 61. Max Soskin, 439 Brooke Ave., New York, N. Y., rec. by Hugo Schaefer and Jacob Diner.
- No. 62. James Clayton Campbell, 463 Concord Ave., Detroit, Mich., rec. by F. F. Ingram, Jr. and Leonard A. Seltzer.
- No. 64. Dennette Weymouth Smith, Merryville, La., rec. by Robert T. Grace and Joe W. Peyton.
- No. 65. George Elwood Ewe, 353 E. Walnut Lane, Germantown, Phila., Pa., rec. by J. W. England and E. G. Eberle.
- No. 66. Charles F. Walker, c/o Medical College of Virginia, Richmond, Va., rec. by Wortley F. Rudd and Wm. B. Day.
- No. 67. Edwin Garner Swann, Pharmacist, U. S. Navy Dispensary, Navy Yard, Philadelphia, Pa., rec. by E. G. Eberle and J. W. England.
- No. 68. Tachong Lee, 29 14th Ave., Columbus, Ohio, rec. by Azor Thurston and Edward D. Davy.
- No. 69. Leonard Bergstein, 509 N. Lake St., Madison, Wis., rec. by Edward Kremers and Nellie Wakeman.
- 415 N. 33RD STREET.
J. W. ENGLAND, *Secretary.*
- A. PH. A. COUNCIL LETTER NO. 10.
- PHILADELPHIA, January 22, 1919.
- To the Members of the Council:
- Motion No. 13 (Election of Members; applications Nos. 56 to 69 inclusive) has received a majority of affirmative votes.*
- Motion No. 14 (Election of A. G. DuMez as Secretary of Scientific Section). Moved by E. N. Gathercoal, seconded by W. B. Day, that A. G. DuMez be elected as Secretary of Scientific Section, succeeding Hugo Schaefer, resigned.*
- The following communication has been received from General Secretary Day:
- "The members of the Council will recall in