



Centre for Evidence Based Medicine,  
Nuffield Department of Primary Care  
Health Sciences, University of Oxford,  
Oxford, UK

Follow Jeffrey on X (formerly Twitter):  
@JKAranson

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## When I use a word . . . Medicines regulation—Patent medicines

“Patent” means open. Letters patent are government documents that grant the sole right to make, use, or sell some commodity, such as a medicine. The UK’s 1868 Pharmacy Act made it an offence for anyone other than a registered pharmaceutical chemist or chemist and druggist to sell poisons. Furthermore, such an individual was required to conform to certain regulations, such as indicating the poisonous nature of the formulation on the label. However, section 16 of the act exempted medicines that, although called “patent medicines,” were not actually protected by a government patent. Nevertheless, in 1892, a magistrate defined a patent medicine as one that had a government patent, and thus all so-called patent medicines that were not patented came under the 1868 Pharmacy Act, with the requirements of which those who sold such medicines had to comply. What was once secret became open.

Jeffrey K Aronson

### Hansard

The well known eponym “Hansard” refers to the records of UK parliamentary debates, which are named after the printer Thomas Curson Hansard (1776–1833), who published them from 1809.

However, the story starts with the journalist and pamphleteer William Cobbett (1763–1835), best known for his polemical travel essays *Rural Rides*, first published individually (1822–6) in his *Political Register* and later collected in two volumes (1830).<sup>1</sup>

Cobbett had also collected a range of historic parliamentary debates, many taken from newspaper reports, and some from the time of the Norman conquest. T C Hansard, whose father, Luke Hansard, was printer to the House of Commons, started to print Cobbett’s *Parliamentary Debates* in 1809 and bought the title in 1812 when Cobbett was facing bankruptcy.<sup>2</sup> Hansard then continued to print the debates until his death in 1833. From 1823, after he moved to Paternoster Row, they appeared under the imprint of the Paternoster Press, and towards the end they bore the title *Hansard’s Parliamentary Debates*. Soon after he died the reports simply became known as “Hansard.” The earliest use of the term listed in the *Oxford English Dictionary (OED)* dates from 1876. However, there is at least one earlier instance, in a letter written to the Right Honourable Viscount Melbourne in 1835 by Edward Sugden, who wrote, “I quote from Hansard: He said ‘he could never wish to see the legal and political character of the Lord Chancellor of England made distinct and separate ...’.”<sup>3</sup>

A glance at the online index of parliamentary debates in Hansard (<https://api.parliament.uk/historic-hansard/acts/index.html>) yields a list of occasions on which specific parliamentary acts were referred to. For example, the index contains about 45 instances of the words

“pharmacy/pharmacist/pharmaceutic” or “poison/poisons/poisonous,” or both; there are over 40 instances of food and drugs acts referred to in the index, about 20 that relate to dangerous drugs and prevention of the misuse of drugs, a dozen or so on aspects of drug trafficking, and about 20 debates in

which acts that include the word “medicine/medicines” have been discussed. In some cases an individual entry conceals a longer list of instances from the records, all referring to the act indexed.

To give these numbers some perspective, consider that the index includes about 40 instances of “petroleum” and about 110 mentions of “Pier and Harbour Provisional Order Confirmation Acts,” affecting harbours from Bembridge to Wisbech. In contrast, physicians merit only one entry, in relation to a discussion in the House of Lords, led by Baroness Serota and commented on at length by Lord Cohen of Birkenhead, the then president of the General Medical Council, about an amendment to the 1956 Medical Act, whose main purpose was to enable the council to charge an annual retention fee. It also secondarily allowed the council to add to the schedule of the act any academic qualifications that it considered worthy of registration.

Among the indexed terms that include the word “medicine/s” are two acts that deal with patent medicines, the Patent Medicine Stamp Duty Act of 1812 and the would-be Patent Medicines Act of 1884.

### Patency

The putative IndoEuropean root PETƏ meant to spread and hence to open out.

There are many ways in which English words have descended from IndoEuropean roots, some of them directly or indirectly via Greek forms, some via Latin forms, and some via Germanic forms. The ways in which this has happened include direct derivation or derivation after such effects as nasalisation, vowel changes, consonantal changes, and the addition of suffixes. And all combinations of these are possible.

For example, changing the E in PETƏ to an A and changing the final neutral vowel sound, the Ə, known technically as a schwa, to a long Ē gives the Latin verb patĕre, to open, giving us words such as patent, open, as in a patent ductus arteriosus, and patulous, spread wide apart, open, or distended, used, for example, to describe a dysfunctional anal sphincter. And a patio spreads out from a house.

Add a suffix to PETƏ and you get a petal, from the Greek word πέταλον, a leaf. Add a different suffix and you get the broad-brimmed hat worn by the Greek god Hermes, πέτασος. Transpose the vowels and you get a patella, which in Latin is a broad flat dish, one that spreads out. And patella, by consonantal metathesis, gives us platera, also a dish, which comes down to us as a plate or platter. The Spanish dish paella is called after the broad pan in which it is cooked. Patina was another Latin word for a dish, and a patina is a sheen that spreads across a surface. A paten is a shallow dish on which the host is laid during the Eucharist.

A vowel change and a suffix give us the Latin verbs pandere and expandere, to expand; the past participle of pandere is passus, which, as a noun, means a step, giving us pass, passage, passenger, passport, and passacaglia, a dance performed in the street, calle in Spanish. Passim in Latin means all over the place, in a scattered fashion; in English it means found throughout a text.

Now change the initial P to an F, by the process known as Grimm's law. This law governs the ways in which particular sets of consonantal phonemes change from one to another as languages develop, explaining certain Latin/English and Greek/English correspondences. The interchanging sets are:

¶The velars *k*, *g*, and *h*, explaining cardia/heart, genu/knee, and hostis/guest;

¶The dentals *t*, *d*, and *th*, explaining tres/three, duo/two, and thyroid/door;

¶The labials *p*, *b*, and *f*, explaining pes/foot, labia/lip, and fundamentum/bottom

Take PETƏ, change the first vowel, add a suffix, and you get POTƏ-MO. Now apply Grimm's law and you get FOTƏ-MO, giving the hypothetical Germanic root fathmaz, which becomes fæthm in Old English, and eventually fathom. A fathom was originally a distance that could be spanned by two arms stretched out, about six feet.

This makes me wonder about the possible origin of the word hippopotamus, which comes from two Greek words, ἵππος, a horse, and ποταμός, a river. Although the *OED* says that the origin of ποταμός, is "of uncertain origin," I wonder if it comes from PETƏ, describing water that spreads out.

## Patent medicines

Knowing the openness of patency, you might think that the contents of patent medicines would be open to scrutiny. Not so, or at least not originally.

The *OED* tells us that letters patent (Latin litterae patentes) were originally open letters from a monarch or government, intended "to record a contract, authorize or command an action, or confer a privilege, right, office, title, or property"; the term then came to mean a document that grants "for a set period the sole right to make, use, or sell some process, invention, or commodity."<sup>4</sup> The term was subsequently shortened to "patent." The letters may have been patent, but did not require that the "processes, inventions, or commodities" also had to be.

A medicine that was manufactured through the licence of letters patent, i.e. a patent medicine, then became, as the *OED* has it, "a proprietary medicine manufactured under patent and available without prescription."<sup>5</sup> However, in actuality, patent medicines were rarely patented, because it was advantageous to be secretive about ingredients that were often ineffective and even hazardous.

Products that were patented were generally well known effective remedies.

## Chlorodyne

Sales of patent medicines flourished in the UK during the 18th century, marketed as they were under a wide range of often extravagant names and advertised in often exaggerated terms.<sup>6</sup> In the UK, patent medicines were specifically excluded from the Pharmacy Act of 1868 and the Sale of Food and Drugs Act of 1875, and their contents could therefore be kept secret.<sup>7</sup> However, since many of the popular brands were known to contain opium, doctors, supported by Ernest Hart, editor of the *British Medical Journal*, started to campaign to have their sales restricted. In 1884 they succeeded in having a Patent Medicine Bill introduced, which would have brought patent medicines containing opiates under the jurisdiction of the 1868 Pharmacy Act. But lobbying by the Society of Chemists and Druggists, a splinter group of pharmacists separate from the Pharmaceutical Society, which sided with the doctors, ensured that the act was not passed.

However, they persisted and made one of the opiate-containing patent medicines their target. Dr John Collis Browne had formulated morphia (i.e. morphine) in combination with chloroform, tincture of Indian hemp, and prussic acid, and had sold it while serving as an army doctor in India in the 1840s, later giving it the name "chlorodyne."<sup>7</sup> After leaving the army in 1856 he joined forces with J T Davenport, who advertised himself as a "pharmaceutist," i.e. a pharmacist, and together they reformulated chlorodyne in order to comply with the Stamp Acts relating to medicines.<sup>8</sup> Meanwhile, several other versions of chlorodyne started to appear on the market and cases of dependence and poisoning were reported.

In 1892, after the chairman of the parliamentary bills committee of the British Medical Association had sent a memorandum to the Pharmaceutical Society, the Society of Apothecaries, and the General Medical Council, attacking patent medicines, the Treasury's solicitor was persuaded to prosecute the manufacturer of Dr Collis Browne's chlorodyne. Davenport appeared in the Bow Street Police Court in front of a magistrate, Mr. Lushington, charged with selling a mixture of chloroform and morphia without declaring its poisonous nature on the bottle, as Section 16 of the 1868 Pharmacy Act required. Davenport claimed that the formulation was a patent medicine and hence exempt from Section 16. The magistrate, however, ruled that a patent medicine was one that was issued with a government patent, not one that merely complied with the relevant Stamp Act. Chlorodyne had never been patented and was therefore subject, under the magistrate's definition, to the 1868 Pharmacy Act. Thus, a so-called patent medicine, whose formula had once been supposedly secret, became open and patent to all, paradoxically because it had not been patented. Davenport was fined for illegally marketing a scheduled poison. The ruling extended to other similar patent medicines, which were thus brought under the act and controlled. Many manufacturers removed opioids from their products and sales fell.

What had once been called patent actually became patent. What had once been secret became open.

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