

Dr. GARB. Well, sir, I would have to answer you in this way. Those of us who are coming here to testify about this are largely members of the medical profession who have looked into this, and we feel that we are discharging our responsibility by doing so.

Furthermore, I will say that many of us have been working in this field, studying it and trying to be heard for long years before the Congress took interest in it. So I don't think it would be fair to try to place the burden for the situation on the medical profession.

In fact, in the record which I submitted for the Kefauver hearings, was a statement made in 1902 by Sir William Osler, in which he said virtually what we have been saying here in this testimony.

My feeling is that a large part of the responsibility for this does not lie with the medical profession because we are fundamentally powerless.

Senator NELSON. Pardon?

Dr. GARB. I say the medical profession is fundamentally powerless to handle the problem as it stands today.

Senator NELSON. When you say the medical profession, are you talking about the profession as a whole or individual members of the profession? Are you saying the AMA, for example, is powerless to do anything about this?

Dr. GARB. Well, in terms of the AMA perhaps the word powerless is too strong, but I would say it has very little power in this area, if any.

Senator NELSON. In terms of education of the physician, for example?

Dr. GARB. Yes, in terms of the education of the physician too it has very little power. It is I think, doing a good job as it can with the facilities and funds available to it, but you see, in my view, this is not primarily a matter of the education of the physician. There are problems in terms of the medical school and the continuing postgraduate education of the physician, but this is not what I am directing my testimony toward, at this moment.

I believe that the fundamental problem which exists is a matter for Congress and the courts, because this misuse, as I call it, of the brand name privilege is a situation which came about because of a series of judicial decisions which extended the meaning of laws. This goes back to the *Upton* case in 1869, and to the best of my knowledge, Congress has never given a monopoly in law to any company to use a coined name, a noun, as a private product name.

Congress has given a monopoly in the use of a copyright name which identifies the manufacturer, but starting back in 1869, the courts have extended by interpretation the monopoly that is vested in a private product name, and I think this is the problem, and I don't think the medical profession has any power to handle this other than to come before Senate and House committees, as we are doing, and asking that this situation be remedied.

Senator NELSON. Yesterday, Dr. Williams of Emory University, testified along similar lines to what you have been saying. He pointed out that the American Medical Association did what he thought was a splendid job in this field of identifying drugs, informing the physician about their effect some 15 years ago, and that it was his judgment that it was beyond its capacity now, because of the great multi-