$2.00 per Annum

Dominion Medical Monthly

And Ontario Medical Journal

Single Copies 20 cts.

Volume 47 TORONTO, DECEMBER, 1916 Number 6

Dominion Medical Monthly
And Ontario Medical Journal

Vol. XLVII. TORONTO, DECEMBER, 1916 No. 6

Original Articles

THE LAW AND THE DOCTOR

An Address before the Academy of Medicine, Toronto, Nov. 7, 1916.

By William Renwick Riddell, LL.D., Etc.,
Justice of the Supreme Court of Ontario.

In accepting with much pleasure, as I did, the invitation of your President, to address your Academy again, I requested information as to the matter with which my address should deal; and I have been furnished with a list of subjects upon which some one or other member desires me to speak.

The subjects have a familiar ring; I have met them time and again; but they are of sempiternal interest to the medical profession, and deserve respectful treatment.

Many difficulties disappear if, leaving the separate fact, the superficial, we seek after the principle, the essential. That the medical man may understand, or at least may rightly appreciate, the rules of law, he must consider the basis of law, not alone the individual dictate—(were it not that I might be misunderstood I would say "prescription").

Law and Medicine rest upon wholly different bases, and should, and in the nature of things must.

Medicine—I mean true scientific medicine—endeavors by all legitimate means to discover the workings of nature. Control over nature she has none, and can have none. Whether inherent in the very essence of things, as the Pantheist thinks, or implanted therein by an Almighty God, as the Christian holds—whether "it must needs have been so," or the Supreme says "I willed it to be so"—there is a system, a manner of working, a re-

sult following a cause, inexorable, certain, inevitable.' It is upon that philosophy that all natural science is founded; and if that foundation fail, chaos is come again. No man can change the sequence of cause and effect in nature. He may indeed remove obstacles against the working of some cause or remove the cause itself, or add or substitute other causes; but he cannot himself make a cause operate differently from the rigid rule laid down for it by the nature of things or the Creator.

The rules of cause and effect in nature are generally called the "laws of nature"; and it is to some extent at least due to this terminology that medical men are often led astray in their conception of the law of the land—the rules governing in legal matters.

The law of the land is in its origin based upon custom. Whether at all, and if at all to what extent, custom is based upon nature we need not enquire; it would lead us into another field, interesting indeed, but of little importance in the present discussion.

When humanity got tired of the primeval method of determining rights, and found it necessary to prevent the vindication of rights by personal and private brute force, it was necessary to find some Judge or arbitrator to determine between man and man. The arbiter must proceed according to some rule; and the rule he should apply he found in the same way as you and I determine how to act in the ordinary affairs of life.

Wherever men have associated together for any length of time, a course of conduct develops suitable in their view to their environment and the association. That course of conduct is a custom, and customs are from the earliest recorded time and earlier, and this in trivial as in important matters. How one man is to accost, to salute, another is a matter of custom, not only in the most polite and advanced but in the most uncivilized and backward societies. Thieves have their etiquette as well as members of the Synod, and stevedores as well as members of the Academy of Medicine.

When the Judge was called upon to determine the rights of two contending parties, he sought for the true rule of right, and

[1] This conception of the inexorability of the laws of nature is essentially modern. It has not yet made its way everywhere, but most of the opposition to its full acceptance is concerning the past, not the present. In medicine in the amulet days, the laws of nature were considered modifiable by human—and diabolical—means.

It is often said that all such matters are questions of evidence; but that is not wholly true. A few centuries ago, the favored one could, by reciting some incantation call to his assistance a legion of angels, good, bad or indifferent. Aladdin could, by rubbing his lamp, call the all-powerful genie to his service. Who would believe such things now? In the old law not long ago many a poor old woman suffered death—a legal murder—because legal evidence proved she was a witch, and God had said "Thou shalt not suffer a witch to live." Now, if fifty witnesses swore they saw an old woman ride a broomstick through the sky, no Judge would allow the matter to go to a jury, and no jury would convict.

It is not simply a question of evidence—the whole manner of looking upon nature has suffered a revolution.

found it in the customs of his people. What they had been accustomed to do was right for them, however it might be for another people.

Some customs there were which it was not thought by the people worth while to enforce, some virtues which were left in the realm of conscience. Even yet we have no law to enforce courtesy or charity[2]; we leave the cad to the reprobation of those whose opinion is worth having and the ungenerous to his own conscience.

But customs which the people thought worth enforcing became the rules of law. These depended upon the people themselves. An illogical people had illogical customs, a generous people generous customs; but whatever the custom was, that was the law.

This is what is meant by such maxims as "custom is the life of the law," "custom becomes law," "*mos regit legem*," "*mos pro lege*," "*leges moribus serviunt*," "*consuetudo est optimus interpres legum*," etc., etc.

An advancing community grows out of its old customs. What satisfied and suited the early folk irked their descendants. The law was unsatisfactory. In an advancing community the law is always unsatisfactory. Now law, to be law, should be fixed and certain; *Misera est servitus ubi jus est vagum aut incertum.*[3] Where a custom has once been determined to be law it would not do to permit a mere individual to say that it shall no longer be the law. In every society except the very most backward there is a law-making person or body, and that person or body has the duty of making the law fit the needs of the society. The legislator abolishes so much of the common law—that is, the body of customs—as is necessary, and thus modifies the common law.

England and those countries which derive their legal system from England (among them ourselves) have carried out this idea consistently. The customs which have been laid down as law remain law unless and until modifying legislation is passed; and the law is modified only so much and so far as the legislation says, either in express terms or by necessary implication.

---

[2] There are and always will be duties of imperfect obligation, which the law will not think it worth while to enforce. The sneering backbiter will be allowed to pursue his dirty way unchecked by law till his slander does someone harm or he accuses someone of actual crime.

What the law will and will not prevent, depends on the people. In our country anyone is at liberty to malign the dead so long as he says nothing about the living. That is because we have not thought it worth while to protect the reputation of one who has gone where he cannot be harmed by detraction. Other peoples have the same regard for the dead as for the living; with them, *de mortuis nil nisi bonum—aut justum*; with us *de mortuis omnia*.

[3] This well-known legal maxim may be stated thus: Obedience to law becomes a hardship where the law is vague or uncertain. "The glorious uncertainty of the law"—really a blot not a glory—does not obtain in one case out of a thousand. In almost every case the real dispute is one of fact, not of law.

In the course of time a very great quantity of legislation has been passed, so that in many instances an express statutory rule has been laid down. Doubts as to the exact meaning of such legislation there may be, just as there were doubts as to the exact custom; but in all but a comparatively small number of cases the law is clear. Sometimes difficulty arises in the interpretation of language employed,[4] and the Judge must do the best he can to determine its exact meaning. Sometimes it is not quite certain what the common law, *i.e.*, the custom, was; and the Judge must do his best to find out. But once the meaning of legislation is determined, the custom clearly made out, the duty of the Judge is plain. He cannot change one jot or tittle of the law so determined. He may like it or dislike it; it may seem to him wise or unwise, just or unjust, reasonable or ridiculous; his duty is to apply it, and that only.

Law is man-made, not in the sense of being made by the Judge deciding a case, but in the sense of having been made for him by man. The lawyer, then, is interpreting the work of man, the mind of a community, recent or long past.

Let us take now the two professions and compare them. A medical man is attending a patient. He examines him to discover accurately his exact state, to apply the proper remedy, *i.e.*, to remove some obstacle to the proper and normal operation of organs or to strengthen some operating cause. He has been taught certain supposed "laws of nature," perhaps verified by high authority. These he believes *sub modo*, for he knows there may have been a mistake, and it is not only his right but his duty to suspect their complete accuracy. He must observe and again observe and ever observe; and if he finds that the "law" has been in fact wrongly formulated, the circumstance that it has received the assent of the most eminent authorities, nay, of all, is of no avail. No authority can make, unmake, or modify a law of nature. Sulphuric acid has the same effect on calcium carbonate in Fiji as in Potsdam, and it is just as unsafe to trifle with typhoid or explosives in Togoland as in Toronto.

No medical man will rise in indignation and condemn the "law of nature" which he has found and which, as he thinks,

[4] In every language there must be ambiguity except in the very simplest conception. No matter how careful a legislator or a Judge may be, he cannot express his meaning with perfect clearness without a multitude of words and sometimes not even then. The cumbrousness of statutes and judgments is explained by this fact. If anyone thinks he can express without ambiguity any enactment in fewer or simpler words, let him try it—not simply talk about it.

will be harmful. We are told that when the Ptolemaic system of astronomy was explained to a certain King of Spain—

> the sphere
> With centric and eccentric scribbled o'er
> Cycle and epicycle, orb in orb—

he said that if the Almighty had consulted him before creating the universe he could have given Him some useful hints. But even that King did not suppose that he could change any of the order of the universe.

Nor are the laws of nature the subject of politics. When the man of science finds that potassium permanganate with sulphuric acid produces oxygen and he wants hydrogen, he does not form a Society for the Protection of Hydrogen and make it an issue at the next election. All the voters in the world cannot change the formula:

$2\ K\ Mn\ O_4 + 3\ H_2\ SO_4 = K_2\ SO_4 + 2\ Mn\ SO_4 + 3\ H_2\ O + 5O.$

and all the King's horses and all the King's men will not get free hydrogen from these re-agents. (I suppose I am hopelessly archaic in my nomenclature, but that was good chemistry forty years ago, when I took my degree of B.Sc.)[5]

The lawyer, Judge or otherwise (it is not well to draw too subtle distinctions) investigating a case tries to find the law applicable. He will delve into statutes, decisions, text writers' dicta, endeavor by all means and with all industry to determine what is the precise state of the law.

Often, like the scientist, he may fail; but, unlike the scientist, he cannot experiment and find out. He is in the position of a chemist without apparatus, who must do the best he can by analogy and reasoning with generally a good deal of conjecture added.

But assume that he has found it; it would be silly for him to fight against it in his particular case; it is not made by Judges at the present day and they cannot change it.

So far, the doctor and the lawyer are on the same plane; but now there is a difference. A law of nature is not made by man and cannot be altered by man; a "law" in the sense in which the word is used in the Courts is purely man-made and can be altered by the same power which made it.

If anyone, doctor, lawyer, tinker, tailor, soldier, sailor, is not satisfied with the law as already laid down, it is his right to try

[5] While there were some with the degree of B.A.Sc. before 1876, I think I was the first to receive the degree of B.Sc. from a Canadian university (Victoria University, 1876).

to have it altered. But let him try in the proper quarter and in the proper way; get at the Legislature, the only efficient power. It is as idle for a doctor or other person dissatisfied with a rule of law to gird at the Judge or at the lawyers as it would be for a lawyer to make it a reproach to the medical profession that arsenic is poison or smallpox infectious. The remedies are different. In medicine, apply other laws of nature; in law, get the law changed.

Another distinction between law and medicine is often lost sight of. The object of the profession of medicine is to cure the individual, to make or keep someone well (I am not losing sight of public hygiene—that is but a means for keeping individuals healthy, applied *en bloc* instead of individually.) It is to the doctor a matter of perfect indifference what may be the moral character, the disposition, the past, of the person committed to his care; he may be a Bill Sykes, a Seth Pecksniff or a Ned Cheeryble; the most hardened ruffian or a model citizen; he may have been injured in trying to murder or to burglarize, or in an heroic attempt to save life. The doctor's skill and care are given to one as to the other, and no distinction is made. Perhaps the doctor would be filled with disgust and righteous indignation, or with sincerest admiration, if he were to allow himself to contemplate his patient; but he does not; his business is to cure bad or good, vicious or virtuous, the most despicable or the most admirable.

I have just read an account of a soldier who deserted again and again in the face of the enemy. At length he was condemned to death. In despair he tried to kill himself, but succeeded only in blowing away a part of his face and jaw. He was put in the doctor's care to be guarded against infection, to be treated with all skill, to be nursed back to strength, and then to be stood against the wall and shot.[6]

With the individual as an individual, the lawyer has nothing to do; it is when he comes in contact with others that the lawyer's study begins. What are his rights? That means what is he entitled to receive at the hands of others? What is he entitled to keep from others? What may he do to others? Next, what are his duties? That means, what must he do to or for others, what must he refrain from doing to others? Rights and duties are the whole of the law.

---

[6] General Sutherland, one of the leaders of the American Sympathizers in 1838, was condemned to death by a court martial in this city. While in the old Toronto gaol on the north-west corner of King and Church Streets, waiting for execution, he opened an artery in an attempt which nearly proved successful, to commit suicide. He was discovered in time, the hemorrhage stayed and his life saved. Ultimately he was set free and allowed to return to the United States; but his attempt at suicide had nothing to do with the Royal clemency. Our Canadians would have joyfully hanged him, but the Home Government was more merciful. I have told the story of this General in an article in the *Canadian Magazine* for November, 1914, "A Patriot General."

When Robinson Crusoe was on his island with the company of but his parrot and his goats, a doctor might find a place for his science—the lonely man might be sick or hurt, and the physician or surgeon would be a god-send. But there was no room for the lawyer—Crusoe had no rights to enforce against others, no duties to be enforced of him in favor of others. It may indeed be that in the course of evolution of humanity the lower animals will in time be vested with rights against their lord, but so far they have none. The trifling protection they now have is due not to any legal right they may have—no one has ever heard of a horse or a dog suing his master for damages—but to the sentiment of pity in the human mind. This is quite distinct from a right.

Let me explain by an example. If a man hurts another, he may be sued and compelled to pay money to him he has injured, and he cannot minimize the offence by killing him. A horse his owner should not hurt; but the horse cannot get damages, and it is a less offence to kill a horse than to torture him. The stray dog and cat which no one wants will be killed by the Society for the Prevention of Cruelty to Animals with the hearty approval of everybody; but no one is allowed to kill it by degrees. There is no Society for the Prevention of Cruelty to Imbeciles which will be allowed to kill them to put them out of their misery, no permissible euthanasia to put an end to a living death.

But once another human being arrived on the island, there were relative rights and duties—the right of Friday to be allowed to live, the duty of Crusoe to let him live. Life, liberty and the pursuit of happiness were the rights of each and it was the duty of each to respect the right of the other.

The law, whether custom or legislative, looks to the community; and the rules of law are the rules which are believed, rightly or wrongly, to be for the benefit of a community. An individual as individual, may do as he likes, so long as he does not interfere with the well-being of the community.

These considerations, commonplace as some may consider them, are often overlooked. I think they will solve many of the difficulties medical men feel in respect of the law.

Now let me take some concrete cases. A very eminent medical man says to me: "It would be interesting to note the working of the legal mind regarding such a question as this: 'Why should the legal definition of insanity and responsibility remain at variance with the medical conception, which is founded on experience rather than theory?'"

My answer is, there is no legal definition of insanity. No doubt there are a dozen or more medical definitions and half a

hundred medical conceptions of insanity. To practically every man will the word "insanity" carry a connotation differing from that to every other. But to the law the fact that a man is insane is as indifferent as that he has a broken leg. The doctor with his patient is wholly occupied with his condition and how best to remedy it, irrespective of how others may be affected; the law is concerned with how he will perform his duties toward others, and insist on his own rights, but is wholly indifferent to his condition of health in itself.

"If it should happen that a Judge were to be called in by a medical man to assist in the treatment of an insane man, he would necessarily follow out the methods of medical treatment. And so where a medical man is called upon to assist in the administration of the law, he must adapt himself for that occasion to the principles of the law. Neither Judge nor lawyer need, while assisting in the province of the other, abandon the views he holds in his own province, nor does he. To the medical man the insane person is a sick man to be treated for his disease, and it is a matter of indifference whether he is a criminal or not; to the Judge it is a matter of indifference whether a prisoner or a litigant be insane or not, the question is, is he capable of making a contract, is he responsible for his acts?" [1]

There are, as a rule, only three cases in which want of mental capacity will come in question: responsibility for crime, capacity to make a will, and capacity to enter into a contract. Curiously enough, it is only in the first that we find medical men finding fault with the law. In the other cases I have never seen or heard of any complaint. Nor has there been any complaint that those supposed to be insane are civilly liable in damages for their acts, just as one who unintentionally struck another would be. It is only when responsibility criminally for acts comes in question that we find any collision of views; and that I ven-

[1] The quotation is from An article of my own, written at the request of the Honourable the Provincial Secretary, but at the instance of my dear friend, Dr. Bruce Smith. When Bruce Smith died, Ontario lost a useful and faithful public servant, the medical profession an ornament, I, in common with many of you, an interesting and delightful friend.

The article is headed "Insanity in its Legal Aspects," and will be found in the *Bulletin of the Ontario Hospitals for the Insane*, Vol. V, No. 2, January 1912, pp. 3-10. I would invite the attention of the profession to the treatment of the subject in that article. My medical friends must not take offence if I say to them that they cannot and should not segregate themselves from the rest of the community. When a Judge has appendicitis he receives the same treatment and is carved with the same knife as any other "layman"; the lawyer does not expect a doctor to treat him differently *in medicine* from anyone else. Why should a medical man, where he is a "layman"—that is, in law—expect different treatment or a different rule from any other layman? *Esprit du corps*, pride in our profession, are good things; but they must not be allowed to degenerate into claims of special rights and privileges.

ture to think is largely due to the intensive view the medical man naturally and properly takes of the individual.

Let us now enquire what our law says:

"No person shall be convicted of an offence by reason of an act done or omitted by him when laboring under natural imbecility or disease of the mind to such an extent as to render him incapable of appreciating the nature and quality of the act or omission and of knowing that such an act or omission was wrong."[8]

There are several things to bear in mind in this law:

(1) It is only those whose minds are defective *ab origine* and those whose minds are diseased who are to be excused. The man who makes himself drunk with alcohol or drugs is not favored, although indeed if intention be an element of the crime his state may be enquired into to determine if he had any, and, if any, what intention. In that I think all will agree the law is right.

(2) Then if the mind is so defective or diseased that the person cannot appreciate the nature of his act, all will agree that the unfortunate should not be punished criminally, whatever pecuniary penalty he may have to pay.

(3) Again, if he knows well what he is doing, appreciates the nature and quality of his act or omission, but from his abnormal state of mind is not capable of knowing that the act or omission is wrong, he should be excused.

It will be seen that it is the extent of mental power which the law considers, not the use made of it. For example, if the mind of the accused is of such a character that he is capable of understanding the nature of an act he will not be excused, whether he is sane or insane, if he allows passion to overcome him, prejudice or hatred to sway his conduct. Again, if his mind is of such a character that he is capable of understanding that an act is wrong, *i.e.*, forbidden by the law, he is not excused, sane or insane, if he sets up his own standard against the standard set up by his country and does that which is forbidden by the law, because he thinks it right.

Would it not be of the most evil consequence if anyone were to be allowed to decide for himself whether any act was right

---

[8] This is section 19 (1) of the Criminal Code of Canada; but the statute is only a re-statement of the previously existing law as authoritatively laid down in the case of Daniel McNaghten who, in 1843, shot and killed Edward Drummond, when insane and laboring under morbid delusions. All the Judges attended the House of Lords and gave their opinion as to what the law was; and ever since the law so laid down has been followed in the British Empire. The opinions may be seen in Vol. 10 of Clark and Finnelly's *Reports of Cases in the House of Lords*, pp. 200 sqq., or in Vol. 4 of Howell's *State Trials*, new series, pp. 847 sqq.

The history of the evolution of the legal concept of responsibility is most interesting. Some day, if I am asked, I shall gladly address you on that subject.

or wrong? In the realm of conscience that is the case; but society will not allow acts to be done with impunity which may be fully approved by the conscience of the actor but which are forbidden by law. Charlotte Corday had the approval of her conscience when she killed Marat;[9] would her act be tolerated by any civilized people? Some of the Mormons have been impelled by a sense of religious duty to have more than one wife; do we overlook that act? Or take a case nearer still. Not long ago a man of German descent was charged with treason in this city. Would it be any defence that he thought all he did was called for by his love for Fatherland?

For its own protection, for the protection of society and of the individual, the State has laid down certain rules of conduct; these must be obeyed, or there is anarchy.

Our test, then, of responsibility is mental capacity; and so far I fancy most medical men will agree that the test is not unfair.

But it is sometimes objected, what about the man whose mind is such that he has a perfect apprehension of the act and its unlawfulness but has an irresistible impulse to do the act: who says

> "*Video meliora proboque*
> *Deteriora sequor,*"

and, knowing that an act is morally wrong and against the law, is constrained by his diseased brain to do the act which he himself reprobates?

There is a difference between an irresistible impulse and an impulse which is not resisted. We have all had the latter kind of impulse. Nay, the fear of the most severe punishment is not always successful in causing effective resistance to an impulse to do wrong. How many have said "I'll kill him if I swing for it"; and have done it? Bill Sykes had an impulse to kill Nancy, which he did not resist. No doubt he would have said with more than a mere modicum of truth that he could not resist. Should he therefore go free? No one would say so. The fact that the mind may be defective congenitally or diseased does not make it the less true that many of the so-called irresistible impulses are not truly irresistible but only unresisted.

I once charged a jury in a murder case in which the defence of insanity and irresistible impulse was set up:—"The law says to men who say they are afflicted with irresistible impulses 'if

[9] The murder, but the other day, of Jaurès in Paris, and of the Prime Minister of Austria, that of Lincoln by Wilkes Booth, of Garfield by Guiteau, etc., will occur to everyone.

you cannot resist an impulse in any other way, we will hang a rope up in front of your eyes and perhaps that will help.'"

Would it not be unsafe to leave open a defence grounded on supposed irresistible impulse? (I shall assume that there is such a thing.) If such a defence is open to the insane, it must needs be open to the sane; and the undoubted fact that as a rule in the insane the power of self-control is weakened and they are (speaking generally) prone to act on impulses does not affect this question.

I am not at all concerned to defend our law. I did not make it. If anyone does not like it, let him make an appeal to the proper quarter and get it changed. But before he does so, let him consider not alone the accused, but the safety of the community; let him carefully study the works of those who have seen the matter on both sides and let him consider whether it is not better to have the law as it is than to open such a line of defence, pregnant as it is of danger and liable to great abuse.[10] In our system, the Minister of Justice considers each case on its own merits. He has every one convicted of murder examined by independent experts where insanity is suggested; and there never has been a case in this Dominion in which a prisoner has been executed in whom there was real reason to fear insanity or weakness of mind as the actual cause of the crime.

And, finally, the people of Canada would, I think, never agree to a change in the law. The defence of insanity has, in my experience and observation, had much more consideration from the Judge than from the jury.

Another eminent practitioner asks, "Why has not the doctor the same right as the lawyer to refuse to disclose what his patient tells him?" My answer is "He has"—and you cannot get up a quarrel with the lawyers or a grievance against them over that.

There is no such thing in our law as a *solicitor's privilege* to refuse to answer questions concerning what his client tells him. What does exist is the privilege of the client, and for the protection of the client, not for the protection, glory or advantage of the solicitor. If the client consent to the disclosure the solicitor cannot refuse; the privilege may be waived by the client but not by the advisor.

---

[10] I would advise all to read the very valuable treatise, *The Criminal Responsibility of Lunatics*, by Heinrich Oppenheim, M.D. of Heidelberg, LL.D. of London University, M.R.C.S. (Lond.), F.R.S. Med., etc. After a most interesting and exhaustive discussion of the law of various countries, he states as his final conclusion, p. 246:

"Without . . . claiming for the provision of the English law either theoretical perfection or a practical comprehensiveness wide enough to do complete justice in every conceivable case, I believe I am justified in maintaining that it is as safe and satisfactory a working rule as has yet been devised."

Let me add that no law ever has been framed or ever will or can be framed by man which will "do complete justice in every conceivable case."

The rule is based on the impossibility of conducting legal business without professional assistance and on the necessity in order to make that assistance effectual, of securing full and unreserved intercourse between the two. It has existed certainly as long as compulsory evidence has (say since Queen Elizabeth's time), although for a time the theory seems to have involved a regard for the oath of the lawyer. For a century and a half the reason of the law has always been laid down as I have given it.

But even the privilege of a client does not obtain in all cases. While every communication within the ordinary scope of professional employment is privileged, communications in furtherance of a fraud or crime are not privileged, whether the solicitor is a party to or ignorant of the illegal object.

Moreover, the communication must be made to the solicitor as solicitor. No privilege exists simply because one of the parties is of the legal profession; and, to make it even more clear that it is not the solicitor who has the privilege, let me add that "once privileged always privileged," and nothing the solicitor can do, either by getting rid of his client, taking up cases against him, suing him or anything else, enables the solicitor to get rid of the privilege of the client.

Do you like that law? or would you prefer to have your lawyer allowed to tell what he has found out from you—perhaps after he has turned against you? This privilege does not in our law exist in the case of any other relation than that of solicitor and client, and another to be mentioned later—"no pledge of privacy or oath of secrecy can avail against demand for the truth in a Court of Justice"—a communication to a clerk, a trustee, a banker, a journalist, what not, cannot come under the rule as to privilege. Members of a secret society bound by oath or sacred honor not to disclose what took place in the lodge-room have before now been forced to tell in Court what took place in their secret chamber.

The privilege also exists in the case of husband and wife. Neither can be obliged to disclose any communication between them during coverture.

Sometimes the privilege is claimed by clergymen, whether they call themselves priests or not. Not infrequently they say that even with the consent of the penitent they would not disclose the confession. Our law knows no such privilege. Nevertheless, when I was at the bar I never tried to force a clergyman to disclose what was communicated to him by anyone who sought him as a clergyman; and on the Bench I have always advised counsel not to press for an answer against an objection based on religious grounds.

In some countries these communications are privileged in the same way as communications to a solicitor; every country has the law it desires.

There is in our country no such thing as privilege of a medical man to answer any question, any more than any other expert; there is no magic in writing the letters M.D. after one's name.

The claims sometimes made of privilege go much beyond anything found in the case of solicitors. For example, a medical man writes: "A doctor was asked, in the box, Did you treat Mrs. A. for morphinism? He refused to answer. Was he right? If not, why are lawyers and priests exempt under similar circumstances?"

These questions indicate a total misunderstanding of the fact; and if medical men, who are supposed to be better educated than the ordinary citizen, believe that such a privilege as is here suggested exists in the lawyer and priest, what must be the opinion of the mass of the people? "For if they do such things in the green tree, what shall be done in the dry?"

I have already said that there is no privilege in the priest; although from the tenderness with which our Courts treat all honest religious belief the priest or minister is generally not pressed by counsel. I do not know of any instance in Canada of a priest or minister being committed for contempt. Cases have been known in England, whose Courts we generally follow.

Nor would the solicitor be permitted to refuse to answer such a question. The privilege, so-called, does not allow a solicitor to refuse to answer all questions concerning his client; it extends only to oral and written communications between the client and himself, passing in professional confidence. A question similar to that which the doctor is said to have refused to answer would be, "Did you bring an action for breach of promise for her?" "Did you defend her in a divorce proceeding?" "Did you appear for her in the Police Court on a charge of indecent conduct?" and the like. No solicitor would venture to refuse to answer such a question; if he did, he would have occasion to repent his temerity behind the bars of the common gaol. The doctor spoken of by my friend was utterly wrong in law—if the fact be exactly stated.

There are many cases of confidential communication between intimate friends, between merchant and banker,[11] master and

[11] The right and duty of a banker to keep his customer's account secret like a similar duty on the part of a telegraph company, has nothing in common with the privilege we are discussing. All that disappears in court proceedings.

clerk, in which the person in whom confidence is placed would not voluntarily disclose the secret communicated in confidence. No gentleman would. He may protest against being compelled to do so, even if he is not prepared to go so far as a well-known person of the highest station, who is said, when called as a witness against a lady, to have "perjured himself like a gentleman." A doctor may be in the same position; he often is; and he will naturally feel a repugnance to make known what was told him by a confiding patient. His proper course is to state candidly to the Judge his objection and the reason for it. Unless the question is of great moment the Judge will advise counsel not to press for an answer. In most instances, indeed, counsel will *proprio motu,* withdraw the question. Not always; you will find an occasional cad even at the Bar.

But if the question be at all crucial the best of counsel will, in the interest of his client, require an answer. The Judge has no power to do more than advise. The doctor must answer or be committed for contempt.

My friend's doctor was undoubtedly wrong in law, and I should have unhesitatingly sent him to think it over in the seclusion of a cell.

In morals everyone must judge for himself when he will set himself against the law of his country—a law made for him and for me, but made by neither of us. The passive resister of England values the approval of his conscience more than he fears the penalty of the law; there have been and still are many martyrs to what they consider an unjust law; and there may arise cases in which a doctor will feel that as a gentleman he should rather suffer punishment than betray, even unwillingly, a trust. But he is in nowise different from any other gentleman, and he will have this feeling, not because he is a doctor, but because he is a gentleman.

If such a case arise he may in his seclusion from the world say with the old Cavalier[12]:

> Stone walls do not a prison make,
> Nor iron bars a cage;
> Minds, innocent and quiet, take
> That for an hermitage.

I have been wondering under what circumstances could such a question be asked of a medical man. There are two sets of cir-

[12] Richard Lovelace, who for his devotion to the King, Charles I, was committed to the Gatehouse at Westminster, 1642, and there wrote his famous song from which I quote. He fought in the service of France and afterwards of his own King. After the death of Charles he pined away and died in misery, poor, ragged and consumptive.

cumstances under which I can conceive of its being put; first, if the patient were trying to get damages from some one, and her past condition became material. If that was the case, a doctor would be simply dishonest if he helped to conceal the fact. It should not be forgotten that a witness, expert or otherwise, who assists a party—patient or otherwise—to obtain an undue advantage might just as well put his hand in the defendant's pocket and steal the money.

Or the patient may have been a witness, and it became necessary to test how far she was to be relied upon. Her treatment for morphinomania, especially if unsuccessful, would be most material, and should be disclosed. The Court is a place where fact is to be inquired into; and, hard as it may be, that a man's —more so a woman's—faults or weaknesses should be laid open, it would be harder if injustice should be done by concealment.

What I have said answers in principle several of the questions suggested to me; and I do not go into minute details.

Do medical men really desire the law to be as it is in some jurisdictions—to have a change made in it so that the same rule shall apply to them as to solicitors? If so, the proper course is to apply to the Legislatures.

As a true friend of the medical profession, I would give the same advice as that given by *Punch* to those about to marry: "Don't." The privilege, so-called, as I have endeavored to show, is no right given to the solicitor; it is a duty imposed upon him; and, *crede experto,* it is an onerous, disagreeable duty, and one which most solicitors would gladly be rid of if it were consistent with the good of the public. It is no advantage to them but rather a burden.

It might be well, too, to consider whether the people are so enamored of the expert evidence of medical men as to be likely to give them a special rank differing from all other expert witnesses—engineers, chemists, scientists of all kinds. (It may not be without interest to know that our lawyers cannot be expert witnesses in our Courts. The only experts are the Judges who decide the case.[13])

I have been asked to say something about expert evidence, but I addressed this body on that subject November 8th, 1910. The

[13] As law is man-made, there must be someone to decide what it is—experiment will not help—and that someone is the Judge. Lawyers, as experts, may argue before him as to what is the law, but they cannot be sworn to swear to what it is. The Judge must decide on his own opinion; and he is the only true expert. Where the law of another country (except England, whose law Ontario Judges are assumed to know) is to be investigated in an action, the evidence of lawyers skilled in the law of that country will be received as expert evidence. Our Judges are experts only in our own law.

address appeared in the *Canada Lancet* and the *Canadian Journal of Medicine and Surgery* of the following month and is readily available. The address received considerable attention in the medical press of England and the United States, and some criticisms were made upon it; but I see no reason to change one word of it; it still presents my best thought, and those interested are referred to the medical journals.

Several matters, too, are suggested for discussion, the proper subject of lectures by a professor of Legal Medicine, an expert in Medicine, not in Law. While I venture to hope that I have qualifications in Medical Jurisprudence,[14] I make no claim to special knowledge on the medical side, and I leave such questions to those who do.

One set of questions has to do with the law of evidence, a purely legal matter; but as medical men are likely to meet it now and then I deal with it briefly; I mean what are called ante-mortem statements.

The general rule of law is that nothing said out of Court by one person can be used as evidence against another; but there are a few exceptions, one of which is that " in trials for murder and manslaughter the dying declaration of the deceased, made under a sense of impending death, is admissible to prove the circumstances of the crime." This has been the law certainly for about two centuries and a half. You will note that the declaration is allowed in evidence (1) only in cases of homicide, (2) only that of the person slain, and (3) of him only when made under a sense of impending death.

When a patient has been assaulted and will probably die, the doctor will be well advised to have a magistrate or other officer of the law sent for, and leave the proceedings in his hands. In the absence of such, the doctor should make the patient understand that he will not recover; if possible obtain from him some acknowledgment of his appreciation of that fact (as any hope of recovery will vitiate the ante-mortem statement); take down in writing what the patient says of the circumstances of the crime (oral declarations are admissible but not so effective as

[14] The terminology I employ is not universally adopted. In the sense in which I employ the terms, Medical Jurisprudence has to do with the law relating to medical men and medical cases; Legal Medicine with medical questions in matters which are or may be the subjects of litigation or which may come up in the course of litigation.

Let me illustrate by an example. A man is poisoned and dies. A medical man attends him. Legal Medicine has to do with the symptoms or evidence of poisoning; Medical Jurisprudence with the legal effect of this or that, of what the patient said, with whether this or that medical fact was evidence, etc. A Chair of Legal Medicine calls for a medical man with a legal turn of mind; one of Medical Jurisprudence for a lawyer with some knowledge of medicine. It is to me as absurd to have a medical man teach a branch of jurisprudence as for a lawyer to teach a branch of medicine—or for either to teach land surveying or theology—but *quot homines, tot sententiae.*

written); have him sign if possible, and in any case read the statement to him and procure his assent. It is best to take down all the patient says, no matter how seemingly irrelevant it may be; and it is imperative that the doctor shall assure himself that the patient is *compos mentis*—that he is saying what he means and knows what he is doing.

There is no law to compel a medical man to do anything in the matter, however bad a citizen he might show himself to be by neglecting to do as I have stated.

Most of the other questions may be answered in principle by saying that medical men are members of the body politic, citizens of a free country; they have the same interest in their country and their fellow countrymen as other citizens; they are not members of a caste having special privileges; they have precisely the same rights and duties as others. When I am asked, Should a doctor do this or do that? my answer is, Find out what an honest man sincerely desirous of doing the right thing, sincerely anxious for his country's well-being, influenced by no improper motive or dishonorable intention—what that man would do in the circumstances, that let the doctor do, and his skirts are clear.

In many cases it is not a matter of law at all, but of prudent conduct and decent regard for others. A married man consults a physician for what is euphemistically called a social disease; should the doctor tell the wife? There is no law as to that; no legal duty cast upon the medical man to keep the secret or to disclose it to the wife. What would an honorable, right-feeling man do? Would he allow an innocent woman to become infected with loathsome disease and made an invalid for life (I have seen such), or should he tell what may save her—tell what the husband should himself tell, and would if he were not a selfish hound? I have no answer; the law has no answer. Let each find an answer for himself in his own soul.

Many medical men are troubled as to their duty when they are in the presence of a probable crime. Much has been said and written on this subject. A very interesting article from the *British Medical Journal* is reprinted in the *Canada Lancet* for May, 1916, and will well repay perusal.

Let me say at once that in most cases of the kind there is no question of law at all, but a question on the one hand of medical ethics, and on the other, of the moral duty every man owes to the society of which he is a member.

Take an example or two:

A doctor sees a man break his leg, and is called on by the man in agony to help him, surgically or otherwise. He may pass by

on the other side like the priest and Levite; he is not answerable to the law. So a medical man may refuse to attend anyone, however sick and however willing and able to pay.[15]

A man standing on the wharf sees another's child fall in, which he might easily save by a little effort. The law does not compel him to lift a finger; he may stand and laugh at the child's struggles, ending in death, and he has committed no offence against the law.

Many years ago when I was Counsel representing the Crown in a trial for murder, it was proved that the man who had been shot lay all night at a neighbor's gate, and that the neighbor heard his shrieks and groans but did not come near him till the morning, when he found him at the point of death. I diligently examined the authorities in criminal law to see if I could not charge this callous brute with a crime. I could not.

Most cases of the doctor's association with a crime are of the same nature. The law lays no duty upon him—no legal duty, the neglect of which is an offence against the law—let him clear his soul before God and his fellowmen.

There are cases, indeed, in which the law is not silent, for example, anyone who, though absent at the time of the commission of the crime, procures, counsels, commands or abets another to commit it, is equally guilty with the actual offender. But the mere knowledge that an offence is to be committed is not enough, so long as there is nothing done to encourage or aid its commission. Some years ago I prosecuted in Belleville, a half-breed Indian[16] for the

---

[15] This is not so in some countries. In some places it is thought that the monopoly given by law to the medical man may well place on him the obligation to exercise the monopolized art when called upon to do so.

In the ancient law of most countries the position of most men determined their rights and duties. This was so anciently in England; but now only the common innkeeper and the common carrier are obliged to serve all comers. The barrister is by the etiquette of his profession obliged to take any brief offered him, unless it be against some client of his, but may demand in advance any retaining fee he pleases; and thus he may in practice prevent his retainer in cases he does not like.

The change in law is a change from *status* to *contract*. The relative rights and duties between man and man are determined by the bargains they make, not by their station in life or their profession.

[16] The prisoner was Peter Edwin Davis, who murdered William Emory in September, 1899. Davis was said to be the grandson of a favorite officer of the Emperor Napoleon, who, when his sovereign was sent to St. Helena, came to Canada, went to the wilds of North Hastings, and there married the only daughter of an Indian chief. The only daughter of that union married a white man by the name of Davis, and several children (amongst them the prisoner) were the issue of this union. Peter Edwin Davis was a stalwart, muscular young man, over six feet in height, straight as a pine, swarthy and with lank black hair. The trial took place before Chief Justice Armour at Belleville, April, 1890, and the prisoners were brilliantly defended by R. C. Clute, Q.C. (now Mr. Justice Clute of the Supreme Court of Ontario) and the late S. B. Burdett, Q.C. I prosecuted for the Crown.

The evidence proved to be a demonstration that Mrs. Emory knew her husband was to be slain, but there was nothing to show that she approved of it or took any part in it. She was accordingly acquitted. Davis was convicted and hanged, dying as stolidly as he had lived. He showed no desire for life or fear of death. Mrs. Emory haunted the neighborhood of the gaol until the execution. She afterwards married again. A brief account of this case—singular in many points of view—will be found in the *Canada Law Journal* for 1898 (34 *Can. L. J.*, pp. 68 sqq.).

murder of a white man. The white man's wife knew that he was to be murdered but did nothing to encourage the Indian (who was in love with her) nor did she inform the authorities. I had her charged with murder, but she was rightly acquitted. Except under special circumstances there is no duty *in law* cast upon one man to protect another.

Again, anyone, who, knowing a crime to have been committed by another, receives, relieves, comforts or assists the criminal (say, for example) to escape or to evade the pursuit of justice, is guilty of an offence. There is no obligation *in law* on anyone to discover an offence, but if he knows it to have been committed he must walk warily. Mere knowledge is not fatal; some act is necessary, and that act must tend to enable the criminal to elude justice, "must tend to prevent the principal from being brought to justice."

Outside of these offences against the law, the medical man is left to his own conscience. All that was said by the Judges in the instances mentioned in the article already spoken of was an expression of opinion not of the legal duty but the moral duty, the duty as a good citizen, of the medical man. And of that every medical man must judge for himself.

Now let me take some concrete cases proposed for my discussion.

"A man tries to break into a house and is fired upon and wounded; he goes to a doctor's office for treatment and tells how he came by his wound and what he was doing, should the doctor report the case?" I answer that *more Scotico*, by another: "A man tries to break into a house and is fired upon and wounded; he goes into a neighbor's house for linen to bind up his wounds and tells how he came by his wound and what he was doing—should the neighbor report the case?"

"A man is attending a woman who has aborted and is very ill. He suspects criminal interference. Should he go on and treat the case and make no inquiries, or should he try to find out all about how she was operated on and by whom?"

Change the question by saying "friend" instead of "doctor," and find the answer.

Of course the doctor would go on treating the case. If he were prudent he would insist on another medical man being called in; but there is no law to compel him to do anything in the way of finding out the crime, if any. What he will do will depend on his conception of his duty to his country.

I shall at the proper time be very glad to give you my own views of the moral and civic duty of the medical man in such

circumstances; but this is not the time—I am discussing "The Law and the Doctor," not "The Doctor's Duty as a Citizen." That duty each must determine for himself. Sometimes it will be hard to say which of two courses is the better; sometimes one would choose the one while another of equal intelligence, honesty and patriotism, would choose the other.[17]

It may be that I am rather inclined toward magnifying the duty of the physician to his country and his countrymen in general; but I am quite sure that he must always in this enquiry be on his guard against the individualistic view. His patient must not be allowed by his nearness to hide the rest of the world; and the doctor should not swallow up the citizen.

In conclusion, you must allow me to say how glad I am to be permitted to meet you once more, to address you on subjects in which you and I have an equal interest. I try always to speak to you (as to all men) the plain truth as I understand it; but there is no one to whom the honor, the well-being and the well-doing of the medical profession is more dear, and no one who will be more delighted to be of service to you in any way.

At this time, when the world is in travail and the Empire calls all her sons, the medical men have been ever forward in devoted and unselfish service. Let me, as a Canadian and a Briton, express appreciation and gratitude; and hope that ere long the sun will shine again on a happy and prosperous Canada at peace.

[17] It is an utter fallacy to assert that because one cause of conduct is reasonable, honorable, etc., the opposite must be unreasonable, dishonorable, etc. We have recently had an instance of a hot politician asserting that the members of the opposite party were not loyal, basing his assertion on the fact that his own party was. Hundreds of instances could be cited of this silly practice—in politics, in religion, even in matters affecting the war.

FOCAL INFECTIONS

Dr. A. B. Leeds, Chickasha, Okla.: We have found that by beginning at the tonsils and teeth and then checking up the other possible foci, the tonsils or one or more teeth are usually affected with a definite strain of streptococcus or some allied or kindred coccus. In removing these foci in the teeth and tonsils with the other foci, we have not only relieved but also cured many patients whose condition had resisted every other known method of treatment, medical or surgical. Our practice is not to correct a chronic pelvic lesion, cystic ovary, appendix, gallbladder, etc., without removing the diseased tonsils and diseased teeth at the time of the operation, and since following this practice our results have been much more satisfactory. *J. A. M. A.*

Dominion Medical Monthly

And Ontario Medical Journal

EDITED BY

Medicine: Graham Chambers, R. J. Dwyer, Goldwin Howland, Geo. W. Ross, Wm. D. Young.
Surgery: Walter McKeown, Herbert A. Bruce, W. J. O. Malloch, Wallace, A. Scott, George Ewart Wilson.
Obstetrics: Arthur C. Hendrick.
Pathology and Public Health. John A. Amyot, Chas. J. C. O. Hastings, O. R. Mabee, Geo. Nasmyth.
Dermatology: George Elliott.
Physiologic Therapeutics: J. Harvey Todd.
Psychiatry: Ernest Jones, W. C. Herrman.
Ophthalmology: D. N. Maclennan, W. H. Lowry.
Rhinology, Laryngology and Otology: Geoffrey Boyd, Gilbert Royce
Gynecology: F. W. Marlow, W. B. Hendry.
Genito-Urinary Surgery: T. B. Richardson, W. Warner Jones.
Anesthetics: Samuel Johnston.

GEORGE ELLIOTT, MANAGING EDITOR.

Published on the 20th of each month for the succeeding month. Address all Communications and make all Cheques, Post Office Orders and Postal Notes payable to the Publisher, GEORGE ELLIOTT, 219 Spadina Road, Toronto, Canada.

Vol. XLVII. TORONTO, DECEMBER, 1916 No. 6

COMMENT FROM MONTH TO MONTH

A Board of Inquiry has been appointed in England on the Report of Colonel Herbert A. Bruce, and the reply thereto by Surgeon-General Guy Carleton Jones, C.M.G. Canadian information is to the effect that Colonel Bruce was for a time acting Surgeon-General; but fast upon the heels of this announcement came the further announcement that the Prime Minister had overridden the Minister of Militia, who has since resigned, and reinstated General Jones. The personnel of the Board of Inquiry is as follows: President, Sir William Baptie, whose name was suggested by the Director-General of the Imperial Army Medical Corps to Sir George Perley, the new Minister of Overseas Service; Colonel E. C. Ashton (Brantford, Ontario), G.O.C., Shorncliffe, England; Colonel John T. Fotheringham (Toronto), A.D.M.S., Second Canadian Division; Colonel A. E. Ross, M.P.P. (Kingston, Ont.), A.D.M.S., First Canadian Division; Lieut.-Colonel John M. Elder (Montreal), Third Canadian Hospital, Boulogne, France. Everything should be set right by a Board of the undoubted high-mindedness and capability these gentlemen possess. But not alone in the old land, but at home, in Canada as well, should matters be put right, if there are any to put right. Men who have relinquished

large practices for patriotism and a keen desire to serve their country should have British fair play. They above all others should be consulted in any rearrangement contemplated of the Medical Services, whether abroad or at home.

Canadian Casualties numbered 59,911 on the 31st of October, 1916. They were tabulated as follows: Killed in action, 9,457; died of wounds, 3,477; died of sickness, 490; presumed dead, 1,027; wounded, 43,245; missing, 2,245. The Militia authorities have not published the number of Canadian prisoners in the hands of the Germans. The remarkable small number of deaths from sickness should be a stimulus to recruiting; for, when a man enlists to fight for his country, he does not wish to be laid by the heels by the unseen enemies of mankind, the germs and the bacilli. Had like conditions prevailed on the western battlefront as in other campaigns, there would indubitably have been a largely increased list of deaths from sickness; but the splendid work of the sanitary service units, the public health men of the army, and the care and skill bestowed upon the sick, and, not the least, inoculation against typhoid fever, have produced these really excellent and wonderful results. It has been stated on the best authority that only one Canadian soldier so far has died of typhoid fever, and that soldier absolutely refused inoculation, though inoculation is compulsory in the Canadian Overseas Forces. All told, in the British Army, up to August 25th, 1916, there have been but 1,501 cases of typhoid, which were finally diagnosed as such—903 among inoculated men, and 508 among uninoculated men. There were 166 deaths, 47 in inoculated and 119 among uninoculated. In the same length of time there were 2,118 paratyphoid cases—1,968 among inoculated and 150 among men who had not been inoculated. In this latter list there were 29 deaths—22 among the inoculated and 7 among the uninoculated. Practically 99 per cent. of the British forces are inoculated; practically all the Canadian forces.

War, like surgery, is a red business. If the surgeon had to be surrounded by friends of the patient when operating, cautioning him to be provident in his cutting, careful in his spilling of blood; if he had his attention distracted from the object in hand by the excited and sympathetic friends of the patient—what sort of a successful operation would he perform? The good general will not have his men slaughtered needlessly. The greater the casual-

ties, the more need for new men, the more need for unity to win. Canada, having put her hand to the sword, must go forward as an united people for IN UNION THERE IS STRENGTH.

Indeed, every man in Canada must put this question to himself: Why am I not at the front? If we can all answer that question satisfactorily to our own consciences, then no one need despair of Canadian manhood. Having answered that question we should ever keep this one before us: What can I do to help?

The public press should put that last question to themselves expressly. They are the great moulders of thought and public opinion. Politics should be laid aside altogether. An united press stimulating an united people to give the Government of the day an united support in prosecuting our share of war will be soul-satisfying to all loyal British subjects that Canada is doing all that she can. What matters a few paltry dollars of graft here or there so long as Canada continues to pour that ever converging stream of British patriotism upon the western battlefront!

WAR HURTS ATTENDANCE AT THE UNIVERSITY OF TORONTO

Figures recorded to date in the Registrar's office at the University of Toronto show the ravaging effects of war on the enrollment lists of all the Faculties of the University. The registration of students in Arts, Applied Science, Medicine and Forestry is practically complete, and the records show that in some cases the number of students now enrolled is less than half that of 1913-14. The approximate figures to date for 1916-17 are: University of Toronto, 200; University College, 557; Victoria, 309; Trinity, 81; St. Michael's, 168; or a total in Arts of 1,215, against 1,853 in 1915-16, 2,161 in 1914-15, and 2,574 in 1913-14. Applied Science—1916-17, 192; 1915-16, 345; 1914-15, 563; 1913-14, 627. Medicine—1916-17, 399; 1915-16, 614; 1914-15, 660; 1913-14, 623. Forestry—1916-17, 10; 1915-16, 32; 1914-15, 48; 1913-14, 51. Totals (Arts and Science), 1916-17, 1,816; 1915-16, 2,844; 1914-15, 3,432; 1913-14, 3,875.

Undergraduates and graduates of the University of Toronto serving with the colors now number 3,020. Over 140 University of Toronto men have given their lives for their country.

Reviews

International Clinics. Volume III, Twenty-sixth Series, 1916. Philadelphia, London and Montreal: J. B. Lippincott Co.

In this issue there are three articles on Treatment; seven on Diagnosis; one on Pediatrics; two on Dermatology; five on surgical subjects; one historical. This makes a volume of decided interest to the general practitioner. Practitioners in Canada, desirous of getting some of the foremost articles of the day, may order their volumes through the Canadian agent, Mr. Charles Roberts, Unity Building, Montreal, Canada.

The Biology of Tumors. By C. Mansell Moullin, M.A., M.D., F.R.C.S. London: H. K. Lewis & Co., Ltd. Price, 3s. 6d.

In this small volume the author seeks to place the classification and biology of tumors upon a scientific basis. His conclusions are not generally held; but the reputation of the author is such that the views will command attention. The book is divided into two classes: I—Tumors due to the revival of the primitive power of sexual reproduction, gemmation tumors; II—Tumors due to the defects in structural development. The book is interestingly written.

Mortality Statistics, 1914. This large volume has been received from the Department of Commerce, Bureau of the Census, Washington, D.C., U.S.A.

Shakespeare and Medicine. By Sir St. Clair Thomson, London: Harrison & Sons. This is the annual oration of the Medical Society of London, 1916.