Examination.—The man was slightly emaciated, with arms dangling; he was seen to drag his right foot. The difficulty appeared to be in clearing the toes from the ground, and there was a good example of steppage gait. The face showed no anomalies, eyes reacted to light and to accommodation, and the fundi were normal; the tongue could be protruded in a straight line. An examination of viscera and excretions, including urine, gave normal findings. Blood examination gave the following results: Erythrocytes, 4,800,000; leucocytes, 11,000; polymorphonuclears, 85.8 per cent.; mononuclears: small, 7.6 per cent.; large, 6.5 per cent.—practically normal figures, except for a slight leucocytosis.

Muscular system: Arms, forearms, shoulder-girdle, thenar and hypothenar eminences had wasted. The deltoids, supra- and infraspinati had entirely disappeared. Pectorales, latissimus dorsi and the gluteal muscles were atrophic, the right gluteal group more than the left. All the muscles showed marked fibrillary twitchings. The cranial nerves were not involved. Hands, arms and shoulders were almost powerless. Adduction and abduction of fingers was abolished, demonstrating paralysis of lumbrical and interossei muscles. The grasp of the right hand was almost *nil* and that of the left was only slightly better. Supination of the hands was impossible; pronation was barely possible in the right hand, though slightly better in the left hand. Arm and forearm flexion could not be accomplished. Extension of right forearm was impossible and was very weak in the left. The arms could neither be abducted nor adducted. The left shoulder could be slightly elevated, but not the right. All movements were better executed on the left side. The legs showed considerable loss of power, the right more than the left. Flexion and adduction were stronger than extension and abduction, although both kinds of movement were extremely weak. Head and neck muscles were unaffected and also the erectors spinæ, but the abdominal muscles were paretic.

Sensation: The touch, temperature and pain senses were unimpaired.

Coördination: Normal everywhere; muscle and joint sense perfect.

Superficial reflexes: Present, but sluggish, except the abdominal, which was absent.

Deep reflexes: Patellars were present bilaterally, but somewhat reduced; Achilles tap gave no response; there were no Babinski, Oppenheim or Gordon signs; elbow and wrist jerks could not be elicited; masseter jerk was normal. Mentality and speech were not affected.

Second Examination.—An examination made May 10, 1906, revealed the following: Some wasting of cheek muscles, partial atrophy of sterno-mastoids; head had a tendency to fall forward owing to weakness of posterior neck muscles; thighs showed marked wasting of all muscles; adductors were least involved. The legs were generally atrophied, less on posterior surface. Respiration showed marked impairment of diaphragmatic excursion on right side. The abdomen was distended and markedly tympanitic on account of paresis of the abdominal muscles. Owing to the development of extensive wasting and paralysis of the lower extremities, the patient had now become bed-ridden. The sphincters had never been affected. Within the last two or three weeks he had several attacks of dyspnea which were rather alarming.

Summary.—Gradual wasting of muscles with subsequent paralysis, absence of objective sensory disturbances, absence of sphincter trouble; reduced reflexes, constitute a symptom-complex characteristic of spinal atrophy, especially in the absence of a history of alcohol or metallic poisoning.

Termination of Case.—While this article was in the editor's hands the patient died during one of the attacks of suffocation from which he had lately suffered. This would indicate involvement of the bulbar nuclei, besides anterior horn degeneration.

The postmortem examination will be reported in full at some later date. Up to the present, Dec. 9, 1906, only the cord has been examined and distinct shrinking of anterior horns and wasting of cell bodies have been the most important findings. The diagnosis of progressive muscular atrophy has therefore been verified.

It will be observed that the symptomatology of this case does not differ materially from the cases reported in the beginning of this article. Pain was a first symptom; there was some improvement; then came a relapse; and altogether the course was rather somewhat subacute.

CONCLUSIONS.

1. Clinically, multiple neuritis may simulate a spinal atrophy as regards distribution of paralysis, absence of sensory symptoms and protracted course.

2. Progressive spinal muscular atrophy may resemble multiple neuritis in the presence of pain, remission of symptoms and subacute course.

3. Etiology and course are still our best guides in the clinical diagnosis of the various muscle atrophies.

100 State Street.

SOME LEGAL PHASES OF THE "PATENT MEDICINE" QUESTION.*

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Taking the expert testimony, which has been presented on the question under consideration, to be a substantially correct statement of the facts, and conceding, in fairness to the prisoners at the bar, the "patent medicine" men, that these witnesses, filled with zeal as to the merit of their case, have perhaps gone further than the court, in the impartiality incident to its position, would go in its findings of fact, there can be no question, in the minds of those untrammelled by self-interest, that the "patent medicine" business, as exploited to-day, is a serious evil.

That the methods frequently employed for the purpose of inducing the public to buy these remedies are positively dishonest and fraudulent, and that the remedies themselves are in many instances of no medicinal value, can not be questioned.

Leaving for the moment the more serious phase of the question, the harmful physiologic effects which naturally follow the use of many of them, the fraudulent nature of the business, when existing in the case of any remedy, affords ample justification for the prohibition of its sale, and the punishment of the agency responsible for it, by the exercise of public authority. Nor is the defrauded purchaser remediless, though, as I shall attempt to show, any action on the part of the injured individual can have little effect in correcting the abuses incident to the business.

PRESENT LEGAL REMEDIES INADEQUATE.

When fraud has been practiced, and the purchaser has been induced by deception to buy a worthless article, and the only loss he has suffered has been to his pocket, his damages would, of course, be limited to the price paid for the article. In such cases the expense and difficulty of securing legal redress, in practically every instance, would be so far in excess of the relief sought, that resort to such measures would, of course, be foolhardy, as the time of courts and men is too valuable to be taken up with such trivial matters as the price paid for a bottle of medicine.

The same is true as to the legal remedy of an individual for damages suffered by reason of the failure of a "guaranteed" article to cure. Rarely are these guarantees framed with the idea of creating, nor do they often

* Read before the Winnebago County Medical Society at Oshkosh, Wis., Nov. 15, 1906.

create, any liability. When they are so drawn that a legal liability can be construed out of them, it is so weighted with conditions, which must be observed by the person using the remedy, that the requisite particular combination of circumstances necessary to create such liability could rarely, if ever, exist. And in cases in which there is a positive guarantee to refund the money if the purchaser is dissatisfied after using the contents, or, as is usually the case, a specified portion of the contents, rarely does the purchaser come back for his money, and for obvious reasons; he may think he has not given it a fair trial; Nature may have corrected his condition of ill-health, or, as is usually the case, he deems it too trivial a matter to warrant the expenditure of the effort involved in getting back his money, with its attendant humiliation. When the money is refunded, the loss of the profit is merely charged up to advertising expense, the "guaranteed cure" advertisement and the sale of the remedy go on.

While on this phase of the subject, one of the many difficulties which presents itself, when an attempt is made legally to disprove some of the extravagant claims made by the proprietor as to the value of his remedy, is that he frequently has a formidable array of witnesses, who stand ready to testify to the beneficial results experienced by them from the use of the remedy. In many instances they are sincere in their statements and thoroughly believe they have been benefited. The causes which contribute to the correction of a condition of ill-health may be varied and numerous; it may be the remedy administered; it may be the psychologic effect on the mind of taking a remedy in which the patient has faith, based on the testimony of others or the claims of the manufacturer; it may be that natural processes have corrected the trouble. The effects, in particular cases, of many of the various forms of medical treatment are incapable of positive demonstration, by reason of the fact that we have no means of knowing how the patient would have come out in the absence of such treatment. The natural conclusion, however, of the ordinary individual, taking a particular medicine for a particular condition of ill-health, is to attribute improvement, if it result, to the remedy, rather than to something else. Hence the difficulty of disproving many of the extravagant claims as to cures effected, based, as they often are, on opinions, which, though truthfully held, may have no foundation in fact. Cases doubtless exist in which substantial damages might be recovered against the manufacturer of a nostrum, from the use of which in accordance with the published directions death or injurious physiologic effects have resulted. Liability in such cases, however, is greatly limited by the extreme difficulty of proving that the injury is the natural result of the administration of the remedy, uninfluenced by other causes, that the prescribed dose was taken and all directions were followed. And, further, there is frequently great inequality in the power of the respective litigants to carry on a lawsuit to a successful termination. In the greater number of instances the party seeking redress belongs to the poorer class, while the manufacturer of the remedy is well equipped with the means to fight a legal battle.

There are, it is true, a few cases of this kind in the books, in which damages have been so recovered, but, so far as practical results go in the way of any general correction of the abuses incident to the traffic, any legal remedy the individual may have for damages to body or

purse is utterly ineffective. Nor are criminal prosecutions of much, if any, more effect, on account of the increased difficulties of satisfying the requirement of proof beyond a reasonable doubt, instead of proof by a preponderance of the evidence, as in a civil action.

So far as any of the legal remedies mentioned are concerned, it seems to me that it is useless to expect from them any adequate relief, nor is it possible to formulate any law which can have any great general effect, if its application is limited to the correction of the mischief or the punishment of the offender, after the damage is done. The only practical line along which effective work can be done is along the line of limitation of the sale of remedies, demonstrated to be worthless or injurious, by means which will protect the public from the imposition of the fraud and the possibility of injury from their use.

THE NEWSPAPER AND "PATENT MEDICINES."

The newspaper is denounced, and deservedly, as one of the chief agencies responsible for the extent and prevalence of the evil. In a sense, the moral responsibility of the publisher, who, for a consideration, sells to another the means by which fraud and perhaps crime can be perpetrated and the accomplishment of these purposes made easy, is greater than the responsibility of the originator, in that the former uses the vantage of his position, by reason of which he can easily reach the ear of the multitude of his fellow-men, to their undoing and his profit.

In principle, there seem to be no reasons why a publisher, knowing the falsity of an advertisement, or aware of the consequences which may naturally be expected to follow the use of an article advertised, should not be subjected to the same liability as the proprietor himself, on injury resulting to a person induced to use such article, by reason of an advertisement for which the publisher is responsible. In such cases, the publisher becomes a party to the fraud or crime, and the agent of the principal and, as such, responsible for the consequences of his wrongful act. We have, however, seen the practical difficulties which attend attempts to secure damages against, or to punish the proprietor, and when we add to these difficulties the additional one of proving guilty knowledge on the part of the publisher and of fixing responsibility on any one of the numerous heads of the modern newspaper, the inadequacy of any such remedy, granting that it exists, becomes at once apparent.

I have made a somewhat diligent search of the books, but have failed to find any case reported in which a publisher has been held liable for damages resulting from a false advertisement, or punished for the publication of matter, unless the same came within the definition of matter the publication of which was prohibited by some statute or ordinance. There can be no question that the police power of the state is sufficiently broad to prohibit the advertisement of articles and matter injurious to health and subversive of good morals. Many of the states, including Wisconsin, have statutes prohibiting, under heavy penalties, the publication of obscene matter, or matter tending to corrupt good morals. We also have a statute prohibiting the publication of any newspaper or publication devoted principally to criminal news, police reports, etc. Many of the states have enacted statutes prohibiting the advertisement of articles or means for procuring abortion. The state of Washington, in 1905, passed a law prohibiting advertisements for the treatment of "venereal" diseases, and of remedies for such

diseases. In Germany, newspaper advertisements are subject to stringent regulation. An article in *THE JOURNAL of the American Medical Association*, Nov. 25, 1905, states that, in 1903, the confederated states of Germany formulated a list of secret remedies, the advertisement of which was prohibited. Some of the manufacturers then changed the names of their preparations and advertised them under the new names. Suit having been brought against one in Prussia, and one in Baden, it was decided by the Prussian court that, the name having been changed, the article could be advertised, the prohibition applying only to the advertised name; the Baden court held the product to be the thing prohibited from advertisement, and that changing the name made no difference. Even under the Prussian ruling the law should, it seems, prove effective, as it is the name rather than the composition of these articles that sells them. So far as legal measures are concerned, it seems that regulative and prohibitory measures, directed against the publication of advertisements of such articles as can be proved of fraudulent character or injurious to health, will prove the most effective.

The public is coming to understand that liberty of the press does not mean license to publish anything the publisher may see fit to put into his columns, but that the liberty of the press, protected by constitutional guarantees, is subject to the modification that such liberty shall not be used in such a way as to interfere with the proper exercise by others of their own rights. Freedom of speech and press does not include abuse of the power of tongue or pen any more than does freedom of action sanction abuse of one's powers to the injury of another in the enjoyment of his equally fundamental rights, the lawful use of his property, and the pursuit of happiness in the legitimate exercise of his occupation or business. The moral responsibility of publishers who take advantage of the public nature of their business and of the vast power thus given them to defraud the public, is becoming more and more generally recognized, and when the recognition of such responsibility becomes sufficiently extensive, and the public arrive at an appreciation of the extent to which it is abused, the resulting public sentiment will soon crystallize into measures and laws of no uncertain nature to check and limit the evil.

WORK OF THE POSTOFFICE DEPARTMENT.

Perhaps the most potent agency which has been found to deal with the subject has been the postoffice department, which, through its power to issue fraud orders, has put out of business countless fraudulent schemes, depending for their successful accomplishment on false and misleading published matter. Section 3929, Revised Statutes, U. S., provides that the postmaster-general may, on evidence satisfactory to him that any person or company in conducting any scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations or promises, instruct postmasters to return to senders all mail addressed to such person or company, stamped "fraudulent," and to deny to such person or company the use of the money order department.

The United States' statutes further provide that certain matter shall be non-mailable. By the enactment of the simple statute that no matter advertising or concerning a lottery or similar gift enterprise should pass through the United States' mails, lotteries were put out of business. The United States laws further provide that no letter, postal card or circular concerning schemes

devised for the purpose of obtaining money or property under false pretenses shall be carried in the mails. They do not, however, specify that the advertisement of any such scheme shall be barred from the mails, as is specified in regard to any advertisement of a lottery and certain other matters. Obscene or indecent publications, articles designed or intended to procure abortion or to prevent conception, articles intended for any indecent or immoral use, and any advertisement or notice of any kind, giving information directly or indirectly, where or how, or of whom, or by what means, any of such articles may be obtained or made, are declared by United States laws to be non-mailable matter, and heavy penalties provided for their violation.

The constitutionality of these statutes as abridging the freedom of the press has been assailed, but they have been held constitutional, and it has been held that the power of congress to establish postoffices and postroads gives it the power to designate what may, and what may not, be carried as mail, and when the circulation of the publication is not prohibited in other ways, but the government merely declines to become an agent in the circulation of matter which it regards as injurious to the people, and when the exclusion applies equally to all, the court holds these statutes do not deny to the owners or publishers any of their constitutional rights.

Under the law as it stands, it hardly seems that the postoffice department has the power to issue a fraud order against a newspaper merely because it contains an advertisement concerning a fraudulent scheme, or that such newspaper becomes non-mailable under the provision referred to because it contains such advertisement. Much effective work has, however, been done by means of these provisions of law.

THE PURE FOOD LAW.

The Food and Drugs Act, passed June 30, 1906, another most important piece of legislation, provides that the shipment from one state to another, or from any foreign country, or to any foreign country, of articles which, within the meaning of the law, are misbranded, is prohibited. In case of drugs they are considered "misbranded" if the package fail to bear a statement on the label of the quantity or proportion of any morphin, opium, cocain, heroin, alpha or beta eucain, chloroform, cannabis indica, chloral hydrate or acetanilid, or any derivative or preparation of any such substances contained therein. The term "misbranded" also applies to all drugs, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any drug product which is falsely branded as to the state, territory or country in which it is manufactured or produced.

THE WORK OF THE INTERNAL REVENUE DEPARTMENT.

Another important measure is the ruling of the internal revenue department, under Circular 673, that all medicines which contain alcohol, unless mixed with substances undoubtedly medicinal in character in sufficient quantity to give a medicinal quality to the liquor other than that which it may inherently possess, shall be regarded as liquor and require of the person selling them a revenue license.

WISCONSIN STATE LAW.

Section 4601c, Revised Statutes, Wisconsin, provides penalties for the sale of, or the having in possession with

intent to sell, any medicine known as patent or proprietary, or of which the formula is kept secret by the manufacturer, which contains morphin, strychnin, cocain or poisonous or narcotic alkaloid or drug, in any quantities which the state board of health shall deem harmful to the life or health of the public, unless the presence of the same be distinctly shown by a label on the bottle or package and on the outer wrapper thereof. Many of these measures are of comparatively recent origin, and it seems probable that the near future will see them supplemented and added to in various ways which will make them more effective.

So far as I have observed, the public discussion of this question, in the magazines and otherwise, has been singularly devoid of practical suggestions as to methods of relief other than such as may result from a general understanding of the facts, whereby it is claimed that the newspapers, by reason of the force of public opinion, will in time be obliged to purge from their columns objectionable advertising matter.

SPECIAL NATIONAL LEGISLATION SUGGESTED.

While much can doubtless be accomplished through this means, there is much merit in the publishers' position that it is practically impossible for them to determine intelligently what advertisements are meritorious and proper and what are not. While in many instances the facts can be easily obtained, in others the misleading, false or harmful nature of the advertisement comes to light only after careful investigation. In cases of doubt it is natural that the self-interest of the publisher is apt to decide in favor of accepting the questionable advertisement. It is probably too much to expect of publishers, actuated by motives of self-interest, that they will act with the same disinterestedness as an agency in which that element is not present. Thus it seems to me desirable that some responsible governmental agency be empowered to determine whether, in the case of any article, improper methods are used in its public advertisement.

It would also seem desirable that, if possible, the sphere of this agency's operation should be national in its scope rather than limited to a state. In view of its success along similar lines, the postoffice department seems to be the one most adapted for the purpose of securing the end sought. As we have seen, congress has declared certain matters non-mailable; but the only instance in which it has specifically declared that a newspaper or publication is non-mailable by reason of its containing the advertisement of an article is in the case of lotteries, although by Section 3893, Revised Statutes, U. S., it is generally provided that any written or printed card, letter, circular, book, pamphlet, advertisement or notice of any kind giving information, directly or indirectly, where or how, or of whom, or by what means certain specified articles can be obtained or made, shall be non-mailable, such articles being as follows: Every obscene, lewd, or lascivious book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character, and every article or thing designed or intended for the prevention of conception or procuring of abortion, and every article or thing intended or adapted for any indecent or immoral use.

Let the definition of non-mailable matter be extended to include newspapers and publications containing advertisements of articles which are being publicly advertised, through the mails, by means of false pretenses,

representations or promises, or which from their nature are injurious to the life or health of the public. Give to the postoffice department, on its appearing that an article is being so advertised, or that the article advertised is of such harmful nature, the power to make a ruling that any publication containing an advertisement of such article shall be denied the use of the mails, appropriate penalties being provided for any violation of the law.

Make the rulings of the department subject to review by the courts, and afford to persons against whom the rulings may be directed proper safeguards to guard against injury from the improper exercise of such power. Proper provision should also be made for the publication of such rulings in such manner as will give adequate notice thereof to publishers before the imposition of any penalty.

It might also be provided that the ruling shall not go into effect until after a certain specified number of days from the time it is made, during which time the party against whom it is directed shall have the right to appeal to the court, and that, in case of such appeal being taken, the ruling shall not go into effect until passed on by the judgment of the court, but that, on the ruling of the department being sustained, the penalty provided in the law be inflicted. It is likely that the mere existence of such an agency, legally empowered to determine whether an article publicly advertised comes within the prohibited class, would do much in the way of regulating advertisements. And with proper safeguards the honest advertiser need have no fear that such a law will interfere with the free exercise of his legitimate business.

CONCLUSION.

We must not, however, expect too much of legal measures. There never has been, and never can be, enacted any law which will protect people from the consequences of their own folly. So long as mankind is constituted as it is, the fool killer will thrive and do business. But in matters so affecting the public health and welfare of society as the administration of medicine and the treatment of disease the public has a right to insist that powerful and poisonous drugs shall not be foisted on them under the guise of harmless articles; that liquor, if sold, shall be sold as such and only under proper restrictions, and that some reasonable guarantee shall be afforded that an article publicly advertised is what it purports to be, and that, if these reasonable requirements are not fulfilled, there be some sure and direct way of administering punishment on the agency responsible for such failure, be such agency the proprietor of a medicine or the proprietor of a newspaper, through whom the former is enabled to reach the public ear and confidence.

The benefits of focusing public attention on any question demanding correction can not be overestimated, as it is only in this way that the public can be brought to a realization of the facts. When this is done, when the inertia of public opinion is set in motion by an adequate understanding of the facts, the "patent-medicine" evil, like many others of greater magnitude, will find an easy solution, for it exists to-day only because the people do not understand.

Such being the case, the duty of those in positions of responsibility is clear, and the value of such work as your society is doing can not be overestimated in its effect on public opinion by directing attention to the facts as they exist.