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ENFORCEMENT OF MEDICAL PRACTICE LAWS BY COUNTY SOCIETIES.

AS EXEMPLIFIED BY THE LEGAL WORK OF THE MEDICAL
SOCIETY OF THE COUNTY OF NEW YORK.*

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In the scheme of medical organization county societies have certain peculiar and specific functions which other medical bodies do not possess. They are especially charged with the duty of guarding the financial and temporal interests of medical men, of standing as their representative before the people, and of performing some of those duties which the medical profession owes to the public. The county society may well be denominated the business agent of the medical profession.

Enforcement of the medical practice laws, and the protection of the public against illegal and criminal practitioners, are among the duties which the county society owes to the profession and to the public. A never-ceasing warfare is waged by the charlatan and criminal practitioner, and they must be met on two battlefields, the legislature and the courts, and there the medical profession requires an alert and experienced champion who is ready not only to defend but also to attack. The Medical Society of the County of New York has performed this special duty with particular energy and success. The work of its legal department is carried on systematically every working day of the year. It is only by persistent and systematic work that the best results can be obtained.

In small counties and rural communities occasional work is all that is required, but the county society should be ready to do it as the need arises. Actual prosecution by the society is not always necessary to the doing of "legal work." An important feature of a legal case is thorough preparation of the evidence. That function may be assumed by an individual or a society, even in states which do not confer special legal powers. Such evidence may then be placed in the hands of the district attorney for presentation in court, unless that official is inimical to such work. If he is the kind of man to push the prosecution in a conscientious and efficient manner, the county society may do much to keep the county free from illegal practitioners, without maintaining a counsel or a full legal department. Unfortunately, many district attorneys can not be relied on, for in some localities neither the people nor the prosecuting officers or judges are educated to the belief that quackery is a very serious offense. Persistence on the part of a county society, however, in most cases, would

enable it to accomplish results through the constituted legal authorities. The simpler class of quacks and illegal practitioners could thus be reached, but special legal training and experience are necessary to convict many of the clever charlatans who operate outside the routine lines. In the larger cities the work can be done satisfactorily only by specially experienced lawyers, for it has come to be a highly specialized department of legal practice. In New York all of the legal policies adopted by the Medical Society have been the result of inventive legal work and the securing of evidence to back up the legal principles which have been established has been a mere detail. The New York County Society prosecutes most of its cases through its own counsel, by courtesy of the district attorney, but occasionally, for special reasons, the evidence is turned over to the local district attorney or to the United States District Attorney.

The state and county societies in New York were organized pursuant to the important law of April 4, 1806, and the duty of regulating medical practice was placed on them by the state at their very inception. On the county societies legal powers are conferred which make them members of a group of organizations to which are entrusted the duty of enforcing certain provisions of the criminal law. Some of the well known societies of this group are the societies for the prevention of cruelty to animals and to children.

While the actual legal work must be done by an attorney qualified to practice in the New York courts, it is kept in the hands of the society by a provision of the constitution, which makes its supervision a special duty of the board of censors. No legal action can be instituted without the knowledge and approval of that board. Under these provisions, Champe S. Andrews, Esq., of the New York Bar, has been counsel for the past eight years.

Having now come to the end of seven years of service on the Comitia Minora, by a very proper precedent, I shall soon retire from official work. So great have been the changes during this time and so important have been the results of certain phases of the legal work that I have felt that they should be presented in comprehensive form. The reports made at the annual meetings are full and complete, but are necessarily fragmentary, as each one covers but a single year. A statement of the aims of the counsel and censors in the legal work and an account of the results obtained during recent years seems eminently proper.

An interesting fact disclosed by the legal work is the change in the methods of the modern charlatan. He is eminently up to date and keeps well abreast of every discovery. It is one of his chief characteristics that he imitates the latest scientific methods. In combating him, therefore, the methods of attack must be changed constantly. Many of the legal methods of five years ago would be useless to-day. Not only does the quack change

* Read before the Medical Society of the County of New York at its One Hundred and Second Annual Meeting.

his methods as new discoveries are made, but he has also learned a lesson from the promoters of questionable business schemes, and frequently seeks legal advice as to how he can safely conduct his unlawful business. In addition to this, powerful political influence is sometimes encountered. The successful prosecution of these cases is no easy task and requires not only legal ability of a high order, but experience and energy, and no small amount of courage.

Notwithstanding these difficulties, some of the strongest and most resolute violators of the medical law have been attacked successfully during the past few years. One of the magistrates of the Court of Special Sessions said not long since, "The medical society has practically run out of business the ordinary quack. It now seems to be turning its attention to the quack who is coached by a lawyer, or has worked out some ingenious method of his own to evade the medical law."

It is frequently asserted that credulity is increasing, notwithstanding our supposed advancement in civilization. A more feasible explanation, perhaps, is the fact that the credulous are more easily reached by the sharpers than they ever were before, which makes the legal work more difficult. I do not need to describe to you the means of communication between the impostor and the credulous dupe. Newspaper publicity is the breath of life of the modern charlatan. Shut him out from the newspapers, lay and religious, and debar him from the mails, and you exterminate him, as you do the mosquito by draining the swamps and oiling the water.

Much of the legal work has become well understood by members of the society. But little has been said, however, on one important feature, and it is not generally understood. It is to this feature that I wish especially to call your attention. I refer to the systematic efforts that have been made to place the work of enforcing the medical practice laws on a more sound and comprehensive basis. To that end, certain systematic series of prosecutions have been taken up for the purpose of establishing legal principles and precedents. Many prosecutions have been instituted, not alone to convict an individual, but even more, as a step toward establishing a principle of law, for in legal practice precedent is a most important and necessary factor. In this state, as in other states of the Union, enforcement of the medical practice laws has been almost an unworked field, and, up to five or six years ago, there were but few precedents, principles, or guiding landmarks. Prosecutions were instituted for but few offenses, and were conducted along certain well established lines. The worst offenders were beyond reach by the established methods and a systematic widening of the lines was necessary.

The first step toward better work, therefore, was to attack more important cases and to begin a systematic campaign for the establishing of legal precedents. This was in the nature of an evolution, the decision on one case being used as a basis for securing a decision on one a little more difficult, until to-day the judges are constantly rendering decisions which would not have been possible five years ago. For purposes of education, complete records of many cases have been printed and distributed by the society, not alone to physicians, but also to the bench and bar.

The first and most important principle to be established was a decision by the highest court of the state defining the practice of medicine, for no such definition existed in this state. We were told on more than one occasion, at Albany, that a definition of the practice

of medicine could probably not be obtained from the legislature until one had been formulated by the courts. The only ruling on the question by the higher courts was the well-known decision by Judge Daniels, of the Supreme court, in the case of *Smith vs. Lane*, in 1881, in which it was asserted that it could not be maintained that one practiced medicine unless drugs were administered. That is, the practice of medicine in New York, from the legal point of view, consisted only in the prescribing of drugs. The reason for this intolerable state of affairs must be sought by a brief reference to history. Up to a few years ago medical science was meager as compared with the science of to-day. Medical treatment meant simply the giving of drugs and almost all diseases were treated by drugs. Anesthesia and asepsis were unknown and surgery was almost unutilized. Climate, diet, exercise, massage, electricity, x-ray, orthopedic appliances and many other remedial agencies were never used. Then, medicine and drug giving were, indeed, synonymous. The laity and the courts were slow to recognize the changes wrought by modern knowledge and methods of treatment, and legally we retained the conception of medicine of a century ago.

As a result of this misconception and limited definition, we have seen a strange thing come to pass during recent years. A swarm of new systems of practice has arisen, some of them grotesque in nature. A study of these new systems shows that no matter how diversified they may be in character, they have one feature in common, namely, they use no drugs. This they proclaim from the housetops. Is not the reason clear for this alleged fear of drugs and this development of non-drug giving systems? The repudiation of drugs has been the most certain way to circumvent the medical laws and escape those annoying requirements of preliminary education, four expensive years in a medical college and a state examination.

Thus matters stood until 1901, when the counsel, with the full support of the censors, entered on a campaign to secure a definition. This campaign was undertaken in the belief that with well selected cases modern conditions of practice would be recognized by the courts, and the conviction of unlicensed practitioners could be obtained when no drugs were used. The first of these selected cases (*People vs. Martin*, 1901) was brought against a man who used electricity in a case of fistula, and a conviction was obtained, the first in the state. The next case (*People vs. Rohrer*, 1902) was brought against a man who styled himself "hydropathic physician" and employed steam baths and electricity. The third important case (*People vs. Sadow*, 1904) was a prosecution for the employment of electricity and massage. The fourth case (*People vs. Starken*, 1904) was a prosecution for simply giving steam baths. Other convictions were secured, one for giving hypnotic treatment only. In all these cases the main question raised in the trial was as to whether the defendant undertook to diagnose and cure disease. The method of treatment, whether with or without drugs, was made incidental to the main question.

These cases established precedents in the lower courts and had their value, but not one of them was appealed. Hence, each case was a test case in itself, and no definition was obtained. Finally, a man was arrested for holding himself out as a doctor of "mechanico-neural therapy." He was defended by one of the ablest law firms in the city, and it was two years before the case (*People vs. Allcutt*) could be brought to trial. Con-

viction resulted and to our great satisfaction the case was appealed. The conviction was unanimously affirmed in February, 1907, by the Appellate Division of the Supreme Court, and after an able argument on appeal by Robert C. Taylor, Esq., of the District Attorney's office, was unanimously affirmed June 14, 1907, by the Court of Appeals. The old adage regarding a famine or a feast was exemplified. Not only has the year 1907 seen the long sought definition established by the court of final appeal, but it has also seen the best legal definition yet formulated enacted into law in the Medical Unity Bill.

Certain features of the decision of the Appellate Division, written by Justice John Proctor Clark, are worthy of notice, for they show a clear understanding of modern medical conditions. "To confine the definition of the words 'practice medicine,'" reads the decision, "to mere administration of drugs or the use of surgical instruments, would be to eliminate the very corner stone of successful medical practice, namely, the diagnosis. . . . Diagnosis would seem to be an integral part of both the study and practice of medicine, so recognized by the law as well as common sense. The correct determination of what the trouble is, must be the first step for the cure thereof." The judges in their decision then ask the pertinent question, "Would the physician, who by his skill discovered incipient consumption, and who advised the open air treatment and refrained from administering drugs not be practicing medicine?" The decision was strong and comprehensive, and a much more liberal reward for years of labor than is sometimes reaped in this world.

The portion of our work next in importance, perhaps, is the campaign against the abortionists. It is the part that is least understood and most criticised. The production of abortion has been a crime from the dawn of civilization, and has been a penal offense since the earliest Ptolemaic period. From Colonial times, few other offenses have figured more largely in the penal code of this state. We have added no laws on this subject, nor have we asked that any be enacted. We have simply enforced the existing laws of the state. The extent of the abortion business, and the appalling rapidity of its increase, is appreciated by but few. There is substantial ground for the belief that 100,000 abortions are committed annually in New York. We do not and never have believed that it can be wholly stopped, any more than we expect to wholly stop many other forms of crime, but it can be controlled and limited. So long had it flourished without let or hindrance, that it had become reckless of the laws and of public decency. We were driven into the work, as Chicago is now being driven into it. In that city, as in this, midwives and advertising abortionists had been wholly unrestrained, and conditions had become so intolerable that certain organizations applied to us last summer for advice and help. The Public Health Defence League, therefore, sent Miss Crowell to Chicago, and this society sent one of its experienced detectives to aid in investigating and laying the foundation for a campaign against the evil. It is a loathsome business, and the censors and counsel of the society attacked it not from choice or desire, but because it was forced on them. Not only were complaints being received more and more frequently from members of the society, but the Police Department, the District Attorney's office, and the Health Department, were referring cases to us as a part of our proper work. Notwithstanding its repelling character, we undertook it as the surgeon undertakes to relieve a sloughing sore.

The midwives were the first against whom action was taken. There are about one thousand midwives in Manhattan Borough. Last year, in the greater city, 48,111 mothers were attended in their confinements by midwives, or 43 per cent. of the total number of births. Conditions relating to midwives are no longer matters of conjecture solely, for many facts have been determined by personal investigation, particularly by that of Miss Crowell,¹ who visited 500 midwives and studied their methods. Among the midwives of New York are many women against whom it would be gross injustice to cast any aspersion and certain classes of our population rely wholly on them for obstetric service. But because of imperfect registration and lack of supervision, many women have assumed the title of midwife who are nothing more nor less than abortionists, and have used it as a cloak to cover a criminal business. Under the law enacted last spring, we have reason to expect radical improvement, but our work thus far has been conducted under the old conditions, which were very bad.

Another extremely important fact is well established. The midwife abortionist does not use drugs in her work. She uses instruments. Miss Crowell found 269 bags and sets of instruments which she designated as dirty. Every physician knows too well what is meant by the use of such instruments in total disregard of ordinary cleanliness, not to speak of asepsis. The path of this class of abortionists is strewn with the corpses of women and girls.

The first efforts in the campaign against the midwives at once demonstrated great difficulties. Legal evidence is very difficult to obtain. The operation is performed behind closed doors, and the victim, for obvious reasons, can rarely be used as a witness. Some of the methods that had been universally employed for obtaining evidence in such cases, while admissible, perhaps, by the police, were of a character inappropriate to a society like this, and it was felt by the officers and counsel that they should not be employed. The counsel, therefore, began a series of cases which has established a principle in the courts, by which many criminal midwives have been convicted for agreeing to perform a surgical operation and doing any overt act tending to consummate that agreement, and we now successfully prosecute, without using those old objectionable methods.

But efforts did not end here. The counsel then advanced a theory which had never been brought forward in a legal case, either in this country or abroad, namely, that to conduct a house where abortions are habitually performed constitutes a nuisance, and as such can be abated. The working up to this principle was a long and laborious process. The test case (*People vs. Hoffman*) came in December last in the prosecution of an especially revolting criminal. She burned a portion of the fetuses in the furnace, but many of them, by an arrangement with a neighboring undertaker, were hidden under the linings of caskets and were thus disposed of. At the trial, however, no operation and no attempt at an operation was shown, nor the commission of an overt act. It was simply shown that she harbored in her house many women on whom criminal operations were performed, and in veiled language advertised her house in the daily papers as open for such work. She was convicted of maintaining a nuisance and was sentenced to a year in the penitentiary and to pay a fine of \$500. On appeal, which was argued by Mr. Kindelberger of the

1. *Charities and the Commons*, Jan. 12, 1907, abstracted in *THE JOURNAL*, Feb. 23, 1907, p. 712.

District Attorney's office, the Appellate Division, on April 19, 1907, affirmed the conviction and called attention to the fact that although no similar adjudicated case could be found, the theory of the prosecution was sound. The decision of the court was that "While the offence of abortion is one thing; that of maintaining premises open to the public for the purpose of consummating that crime is another and separate offense against the peace and good order of the state." This is a most important decision and renders easy a problem that three years ago was considered almost impossible of solution. Two weeks ago the conviction was further affirmed by a unanimous decision of the Court of Appeals. The end of this portion of the work has not yet been reached. A still farther principle is in process of evolution, which it would be impolitic to discuss at this time.

Another phase of this question requires notice. Our first efforts were directed toward the smaller and more obscure offenders, like midwives. There had arisen in this city a class of abortionists much more powerful and dangerous. Doctors of medicine, legally qualified practitioners, were openly and unblushingly announcing themselves as abortion specialists. They were circularizing the profession and taking every means of bringing their vile trade into prominence. The judges began to demand that some of these big criminals, as well as the smaller ones, be brought before them. A judge of the Court of Special Sessions told me personally, as other judges told the counsel, that if we did not attack some of these big criminals and improve the character of our work, we would lose the respect of the judges and our standing before the courts would be compromised. We came to the point where we were obliged to stop this criminal business by medical men or go out of business ourselves. We struck, therefore, at two of the largest and most powerful ones, and you know the result. The one became a fugitive from justice, and the places that once knew him now know him no more. The other, after as hard a battle as ever was fought in the courts, was convicted. After two appeals the conviction was sustained by the Court of Appeals, and he served his term in Sing Sing, and has been refused pardon by two governors. Moreover, the principle of law was established that it is a crime to attempt to commit abortion.

The charlatans who play on the credulity of young men are a particularly vicious type of scoundrel. Extortion and blackmail are constant features of their work, and they probably wrest more money from their victims than do other quacks. Among seven cases that came under our counsel's investigation, the amount exacted ranged from \$490 to \$9,872, the aggregate being \$15,229. One concern which was put out of business used to sell an ounce of simple ointment for several hundred dollars, the price varying with the patient. This ointment was alleged to be goat lymph. Another concern charged one of its victims \$700 for a small bottle of tincture of gentian, which was called radium.

The savings of a lifetime are extorted without compunction by this class of harpies, and men are driven into mortgaging or pawning the last of their property. By false diagnosis and by preying on the fears of their victims these vampires thrive on extortion and blackmail. As they are mostly registered physicians, it is possible to reach them only on such a charge as grand larceny or extortion. They confine their practice to the private diseases of men, and the victim, even of the most iniquitous frauds, will rarely face the exposure which

prosecution would involve. The unregistered quack can easily be reached by detectives, but it is obvious that a detective cannot readily gather sufficient legal evidence of larceny or extortion against a registered physician. Hence, these men are the most difficult of all impostors to reach.

In addition to this, the advertising of these men is more indecent than that of any other class of medical impostors. They advertise through the daily papers and through the agency of obscene pamphlets, which are given out in the streets. The harm done by this kind of advertising can not be described without seeming exaggeration.

Our work in this direction has been extremely successful. The methods employed have varied. Some individuals have been arrested for grand larceny or false pretense, some for false diagnosis. Others have been reached through the Post Office Department, which has declared their business fraudulent. By this means, half a hundred extortionists were put out of business at one blow, without going into court. It was accomplished through the post office authorities, who caused letters to be sent to fifty-two advertisers in the New York papers. When the replies were received the advertisers were summoned to the post office and informed that they must make certain affidavits, admitting responsibility for the business advertised, before any more mail would be delivered to them. This, with one accord, they refused to do, and all of their mail was withheld. This was only the first step. The newspapers carrying the advertisements were at once notified that these were fraudulent concerns and their advertisements must be withdrawn immediately or the papers would be excluded from the mails. With their advertisements stopped and being unable to receive any mail whatever, these fifty-two fraudulent medical concerns withered like plants in the desert and those vile medical columns were at once obliterated.

Another important class of charlatans whom we have successfully attacked, are the alleged consumption cures. These impostors do a vast amount of harm, for they impoverish the poor and prevent their dupes from adopting those measures which will be productive of most good. A principle is now in process of evolution which gives promise of ultimately exterminating these quacks who prey on the consumptive poor. Another vital principle to be established was the limitation to be placed on the use of the title "doctor" by those who are not registered. After several successful prosecutions a man was convicted and sentenced to imprisonment who held a diploma of a western medical school not recognized by the Board of Regents. He was not registered, and held no license to practice in New York, but, nevertheless, advertised as a practitioner in the daily papers, using the title "Dr." The desire on our part for a test case on this question was fulfilled by an appeal in this case (*People vs. Somme*). After argument on appeal by Assistant District Attorney Johnson the conviction was sustained by the Appellate Division in June last and the case is now pending before the Court of Appeals.

This man was prosecuted, not for illegal practice of medicine, but for the illegal use of the title "Doctor." The question raised in the trial was whether or not a graduate of a medical school not recognized by the Regents can use the title doctor in such a way as to convey the impression that he is a practitioner of medicine, without being registered as such. The decision of the court on that point was as follows: "Neither the lawyer nor the doctor coming from another state or holding the

degree of a law or medical school in another state, can hold himself out or advertise himself in such a manner as to convey the impression that he is a legal practitioner of either profession, unless duly and legally licensed to practice in this state under our laws, without being guilty of a misdemeanor." This is the first time a court of record in New York has passed on this mooted question. It simply means that in New York a man, even though he hold the degree of M.D. and may use it in a social or literary way, can not use it for business purposes, unless he is licensed to practice medicine and is lawfully registered.

The most recent legal principle to be sought for was formulated some time ago by the counsel, but it was not thought best to test it under the old law. The new law, however, contains a clause embodying this principle, which seemed to warrant the prosecution of a well-known dermatologic concern (*People vs. Woodbury*). This business was established and owned by a layman, who sold it about three years ago to another layman, who is now conducting it, registered physicians being employed to do the professional work. Simply stated, the principle is this: The license to practice medicine is a strictly personal one. The physician takes a prescribed course in a medical college, passes personal examinations, and receives a personal diploma which he can not legally sell or exchange. He then passes, personally, a state examination and receives a personal license. This license he can not sell or exchange, and the privileges it grants die with him. One of the direct corollaries of this is that a corporation, having no personal license, can not legally practice medicine or advertise to do so. If this principle is upheld by the courts, it will at once put out of existence the most fraudulent of the medical concerns.² Each physician will have to practice under his own name, and be responsible for his work, and a corporation can not conceal the identity of its owners or escape all legal and medical responsibility. The principle, if recognized as law by the courts, will also be an entering wedge in the campaign against "patent medicines."

Other principles of law have been established and other methods of attack have been adopted, for numerous criminal laws have been utilized, other than the so-called medical laws. I have described enough, however, to show the character of the work and the motives which have guided its conduct. Most of the methods which I have set forth were never before used as weapons against quackery until they were developed and employed in this work by our counsel. The ingenuity with which they have been worked out, and the persistence with which they have been followed up, until established by decisions of the highest courts, are worthy of the fullest commendation. The high character of his professional work and the correctness of his legal action are shown by the fact that among more than 900 prosecutions but one case for false arrest has been brought against the society, and in that case the society easily won. While the censors and Comitia Minora have heartily supported every effort to improve the character of the legal work, the principles of law which have been established have in every case originated with Mr. Andrews, and have been developed by him, and the verdicts which have confirmed them have been obtained by his professional work, which has been creative and inventive to a high degree.

The able work done in the appeal bureau of the

district attorney's office in preparing and presenting the important questions of law involved in these decisive cases, has been a potent factor in their establishment by the higher courts. That office has frequently assisted us in our work, also, in the trial of cases, and it is a pleasure to acknowledge the aid thus given. The legal work has been greatly aided also by the assistance rendered by Police Commissioner Bingham, who has detailed a special police officer to the work of the county society, something that had never before been done.

A most satisfactory feature of the affirming of these legal principles by the higher courts is the fact that they acquire the force of law, not for New York County only, but for the state. The value of our work, therefore, is not limited to our own boundaries. While they have no such binding force outside of New York State, they have attracted wide attention among judges and prosecutors, and have opened the eyes of many throughout the country to new and effective methods of attacking quackery. Notwithstanding the success of our work, we have often been hampered, because we are limited by law to certain classes of cases and can not go beyond the limits of New York County. Moreover, we are always hampered by lack of funds, for we are all the time working up to our financial limit. We dare not attack a criminal until we have positive legal evidence, and legal evidence is very different from opinion or suspicion, and it costs money to secure it. Among the hundreds of complaints received yearly, it is almost an unknown thing that the accuser or victim of a charlatan consents to appear as a witness. The society procures its own evidence in every case it prosecutes.

Some organization is urgently needed to carry on the work of law enforcement in a broader way, and over a wider territory, than can be done by any county society. This need seems about to be filled by the new organization resulting from the union of the Public Health Defense League with the Committee of One Hundred of the American Association for the Advancement of Science.

One other subject should receive brief consideration, namely, the so-called Medical Unity Bill, which became a law by the signature of the governor on May 13, 1907. It is the prevailing idea that this law simply abolished the three medical examining boards and instituted one board. As a matter of fact, it is a general medical law, one of the most important and comprehensive that has been enacted since the great law of 1806. In all previous laws, the mistake was made of including but few provisions against illegal practice and medical fraud. In the new law, on the contrary, such provisions are ample, owing largely to the efforts of Mr. Andrews.

A very important provision is the one relative to the revocation of the license to practice medicine. The lawyers have long been able to disbar their disreputable brethren, but the medical profession of New York has stood with tied hands when a physician has turned quack or resorted to a personal or professional life of dishonor. Virtually speaking, nothing short of conviction for a felony could nullify the license to practice after it had once been obtained. Now the license can be revoked by the Board of Regents for many misdemeanors or professional misdeeds, including fraud in practice, but the rights of every physician are fully safeguarded by the prescribed methods of procedure. Hereafter, the advertising doctor and the medical black sheep can not pursue their evil ways with the impunity they have hitherto enjoyed.

2. A conviction has since been obtained.

Another important provision of the law enables the Board of Regents to inquire into the identity of any person claiming to be a licensed physician. No such power was given in the old law. This will make it difficult for a person to practice on the license of a deceased physician, and will render it far easier to detect fraud in medical companies. It will also render it more difficult for quacks to combine and shelter each other, or hide behind licensed practitioners, as they have frequently done in the past. Prosecutions may now be conducted by the society under five sections of the penal code, instead of one as formerly, and also under the special provisions of the new law. The restrictions of the old law making it impossible for a judge to impose a sentence of both fine and imprisonment for a first offense for the illegal practice of medicine has been abolished, so that much heavier and more deterrent penalties may now be imposed.

For several years the volume of legal work has annually increased, and during the year now closing it has exceeded in every particular that of any former year. The number of prosecutions, convictions, fines, and imprisonments, and the aggregate amount of fines have all been greater than in any previous year. The work has not only been an evolution in principles and methods, but has yearly expanded in scope and volume.

In the prosecution of this work all sorts and conditions of men have been revealed as doers of evil, some of whom have posed as moral citizens; many lucrative but corrupt business concerns have been disrupted; many influential citizens and powerful interests have been hard hit. As the work has broadened and the number of such cases has increased, violent animosities have been engendered, not alone against individuals, but against the work itself. And so long as the work is aggressive and effective, opposition to it must be at times expected. To those who feel that the society should limit itself to scientific and professional work, I would call attention to the fact that legal work was one of the essential objects for which it was organized. The title of the legislative act which called this society into existence in 1806, read as follows: "An act to incorporate medical societies for the purpose of regulating the practice of physic and surgery in this state;" and this is incorporated into the constitution as a prime object of the society to-day. With such a mandate from the state and in view of the results accomplished, it seems to me that the society should not shirk its duty as regards the legal work, for it has been a great work, it has been a good work, it has been a clean work.

THE INDICATIONS FOR OPERATION IN ELECTIVE SURGERY.*

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Before the use of anesthetics and before the introduction of aseptic principles, major surgery was limited almost entirely to emergency or imperative surgery. That is, operative procedures were employed only when severe, urgent symptoms could be relieved without too great risk from the operation itself, or when an immediate operation was imperatively indicated in order to save life.

Formerly most operations were in themselves dangerous. Now, in the majority of cases, the risk from the operation itself is slight. The element of danger usually depends on the severity of the condition which makes the operation necessary. This reduction of the operative risk, together with the assurance which we have of obtaining good aseptic results in the great majority of cases, has created for us an entirely new surgical field, that of elective surgery.

The operations of elective surgery are those operations which are usually done in order to relieve distressing symptoms, more rarely in order ultimately to save life. Their especial characteristics are that the operation does not necessarily have to be done immediately, and that there may often be a question as to whether or not the operation really is advisable.

I will mention a few of the many conditions which may come into this field in order to make the conception of elective surgery more clear. Gynecology offers many instances. Displacements of the uterus, tears of the perineum or cervix, inflamed tubes or ovaries, and many cases of ovarian or uterine tumors are frequent examples. The great majority of such cases do not require immediate operation. Many of these patients do not need an operation in order to save life, and in others the question may be fairly raised as to whether or not it is advisable to do any operation at all.

In general abdominal surgery we may consider non-strangulated hernia, floating kidney, many cases of gall-stone or gastric ulcer, and suspected chronic appendicitis which has never shown any symptoms of acute attacks. Without extending this list further, I think enough conditions have been given to impart a fairly clear idea of the sort of case coming in the province of elective surgery.

In imperative surgery the diagnosis is often clear and the necessity for an immediate operation is usually apparent. In such cases there is but one major responsibility devolving on the physician. That is the responsibility of having a sufficiently skillful and satisfactory operation performed at once.

In elective surgery, however, there are usually two major responsibilities. There is as great a need for a skillful operation as in imperative surgery, but of equal, if not of greater importance, is the responsibility of first deciding whether or not the patient actually needs any operation at all.

Who is the man to settle this question? The operator assumes the moral and professional responsibility for the operation. His judgment dictates the procedures used; his is the actual credit if the operation is successful, and his is the blame if it is not. Inasmuch as the operator will thus have to bear the responsibility for the results of the proposed operation, it is only fair that he be allowed to decide whether or not operation is necessary.

To aid the surgeon to make a wise decision he must be given every opportunity for full and free examination of the patient. He should be permitted to express his opinion freely, and should be allowed to follow unhampered the dictates of his own best judgment. The surgeon who waives this privilege of prior examination, unless compelled thereto by extreme circumstances, who sees the patient for the first time after anesthesia has begun, and who does a certain routine operation at another's request, degrades himself and his profession. He assumes the status of a skilled mechanic rather than that of the scientific physician. His operation is human

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