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ORIGINAL ARTICLES.

SOME NEW MEDICO-LEGAL QUESTIONS RELATING TO INEBRIETY.

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Eighteen centuries ago, Ulpian, the Roman Jurist wrote, "A man full of wine can neither see, hear, feel, or reason correctly."

Recently Dr. T. L. Wright has stated this fact, and urged that the testimony of inebriates, while under the influence of spirits as to matters observed in that state, must never be accepted as true unless confirmed by other evidence.

The common opinion prevalent is, that the inebriate unless stupidly intoxicated, has all his usual acuteness of perceptions and judgment, and in most cases may be more clear and accurate as to events and the consequence of his acts, than if sober.

The law assumes and implies that the inebriate is always conscious of his acts and the consequences, and whatever the stupor may be which follows from intoxication, its short duration and uncertainty cannot affect the question of responsibility. This view has no support from scientific study and experience. The rapid advances in the knowledge of brain and nerve diseases, brings out the question of the mental soundness of the inebriate with increasing frequency.

Physicians are called suddenly to answer these questions, and the time has come for a frank open study of them, above the vague theories and dogmatic assertions, which prevail in the court-room, and are asserted as principles of law.

Recently a condition known as alcoholic trance or somnambulism has been brought out in several criminal cases in court, and urged as a distinct state or irresponsibility which should be recognized.

The evidence in most of these cases was so strong as to compel a recognition, and a lesser grade of punishment was accepted. Notwithstanding this great advance, the failure of medical witnesses to understand these and other cases, revealed the urgent need of a larger, clearer

study of all the facts. The medical witness should study the facts and be able to draw scientific conclusions from them irrespective of all legal bearings, or questions of law. His sole duty is to point out the facts, and their most natural and probable conclusions. He should have nothing to do with the questions of law and legal responsibility. He is called to determine the physiological and psychological questions involved, not the legal responsibility or degree of punishment.

The physician should never attempt to harmonize the legal and physiological points of a case; he should study and defend the facts alone no matter what the consequences may be. Although alcoholic trance is still disputed, it has won a recognition simply by the array of facts which could not be explained in any other way. Following along this same line of alcoholic disability and irresponsibility, several new questions have recently come into notice; and while the courts refuse to consider them, the medical witness has a double responsibility to study the facts, and demand a hearing for them.

The first question which has come into some prominence during the past year is this: How far can the testimony of inebriates or persons under the influence of spirits, be trusted concerning matters observed in this condition?

This question called for an answer in the following cases:

An inebriate physician partially intoxicated witnessed an assault and swore to the identity and exact part which the accused was supposed to have taken in the crime.

Second, a barkeeper partially intoxicated at the time, swore to the particular man, who shot another in a crowd, where several shots were fired by different persons.

Third, a man under the influence of spirits testified that he saw the person accused put fire to a building which was burned down.

Fourth, a man on his way home from a saloon where he had spent the evening drinking, identified a man in the court-room, whom, he asserted, he had seen breaking into a house.

In the *sixth* case, a man partially intoxicated at the time, swore to witnessing the signing of a will.

In these cases the medical witness was asked, what, in your opinion, as an expert, based on the statements of the witness, and the circumstances of the case, was the condition of the witness' mind, as to the power of clearly observing and remembering the facts and incidents, to which he has testified? Also, do you believe in these cases, that the witness was competent to observe and clearly remember the incidents to which he has sworn?

If the medical expert has formed no higher opinion of inebriety, than that it is a vice in the moral sense, and alcohol produces a state of exhilaration, his answer will be unsatisfactory. But if he is a scientific student, he will form a general conclusion, which will at least approximate very near to the real facts.

In arriving at the facts, the medical witness must start from some general principles which are recognized as established beyond question.

First, the action of alcohol is always that of an anæsthetic, benumbing and paralyzing. 1. The nerve function and the consciousness of nerve impression. 2. The power of coördinating and regulating these impressions. 3. The reasoning or capacity of comparing acts and events is disturbed. Thus both the sense impressions and the power of analyzing and correctly estimating them are impaired.

This takes place in all cases depending on the amount and quality of spirits taken; where intoxication follows, these effects are very clear, but where a smaller amount of spirits are taken, and only partial intoxication present they are not so prominent. It is present in those who use alcohol continuously, and is noted as a general diminution of brain and sense acuteness.

In active life, brain workers, trained experts, and all persons whose work requires delicate nerve adjustment and accuracy of brain and muscle work, soon find the use of alcohol impairing their powers, and abandon its use, especially when they are called to do any particular work.

The musician, the actor, the scientists, and the professional and business man, very quickly discover the impairments which follow from the use of alcohol, not only over the senses, the volition, the nerve and muscle coördination, but the power of clearly realizing the relation of events. The increased action of the heart from alcohol is of short duration, and is surely followed by diminished sensibility and anæsthesia.

The vigor and strength supposed to come from alcohol quickly merges into weakness and debility.

Hence, the man who is visibly poisoned by alcohol, however slight the degree, has defective senses, defective nerve impressions, defective coördination, and defective reasoning. He is literally suffering from the first stages of paralysis, which begins with the senses. He can neither

see or discriminate accurately; he is always open to the possibility of false impressions and false conclusions, and is unable to correct them.

His senses may be but little impaired, but his power of comparison, of analyzing events and their meaning be very faulty. He has anæsthesia of the higher brain centres, which does not appear except from close observation.

From these general facts, the study of the individual case resolves itself into a question of how far the person used spirits, and how much he had drunk at or about a certain specified time; also the circumstances, conditions and surroundings of the act in question, and the statement of the man; from this medical witness can draw very accurate conclusions.

In the two murder cases referred to, other testimony made the statement of the drinking witness, doubtful. In the third case a clear alibi was established by the accused. In the other cases, although the evidence of the witness was accepted, there was a strong probability of mistake.

The conclusion which appears at this time to be sustained by all the facts and scientific study of these cases, is this:

The testimony of persons while under the influence of spirits, concerning matters observed by them, and their judgment as to events and their meaning, is never accurate, but always open to sources of error and unconscious self-deception which they are unable to correct.

The medical expert should have no hesitation in denying the value and truthfulness of all such testimony.

A second question has come up recently, along this same line of research, only more difficult and involving more accurate psychological and physiological study.

It is this: How far is the statements or confessions of persons, partially intoxicated, or under the influence of spirits, concerning their personal acts, to be accepted as true and veritable?

An answer to this question was sought in the following cases:

An inebriate shot and killed his partner while under the use of spirits. At the station house soon after, he made a confession, which reflected very severely on him. On the trial his statements of the crime was not sustained, but contradicted in many ways. *Second*, a stupid beer drinker shot his wife while drinking, ran away, was captured, told different stories of the crime, each of which aggravated his guilt. The medical experts differed widely on the questions of the truthfulness of his confession, and the man was finally hung. Later evidence appeared which indicated great doubt of his confessions, and made it probable that he had shot his wife in a very different way from that which he had sworn to.

Third, a man was found drowned, and a drinking friend confessed to have pushed him into the

water, while in a state of intoxication. This confession was clear in its details, and he seemed very earnest and contrite. It was accepted as true, and he was sentenced to prison for life. Subsequently it was found that the drowning was accidental, and the confessed murderer was miles away sleeping at this time, suffering from alcoholic stupor. A few hours later he came to the scene of the drowning, and at once came to the conclusion that he had committed the crime.

A fourth case was that of a man, who, after drinking all the evening in a saloon, saw on his way home after midnight, a deadly encounter with a burglar in the hall of a house he was passing. He was taken to the station house, and after a series of questioning, identified the burglar, and swore to many details of the crime.

This was found to be untrue, although he adhered very closely to the details and urged their truthfulness. In reality he had been told what he saw by the officer, whose suggestive questions made up the entire statement.

The medical questions in these cases were answered from the assumption that the use of alcohol, unless to stupor, does not impair the senses and reason on matters that concern the personal acts and conduct. It was assumed that any statements or confessions of crime that periled the freedom and safety of the man, could have no other motive except that of the promptings of a wounded consciousness to repair the injury. It was assumed that no man under the influence of spirits, not stupidly intoxicated, would ever confess to acts not committed, or ever delude himself with such impressions, especially as at this time the brain was in a state of increased activity. All these assumptions were wrong, and contradicted by the facts of all cases. The man under the influence of spirits is always semi-paralyzed; his brain is in a confused state, and never guided or controlled by natural healthy motives; his senses and judgment are weakened, and the repetition of any statement which may impress him, may soon seem a reality which he is never able to correct. His mind is open to all sorts of morbid impressions which quickly appear like realities.

In the lower courts these special phases of brain palsies are seen in the confessions and sworn statements of acts and events observed that are often found to be absolutely false.

The conclusion is evident that no testimony, statements or confession of persons under the influence of spirits concerning his acts, conduct or motives, has any value or can be trusted unless sustained by collateral and other evidence.

A third question along this line of inquiry has also become prominent during the year: How far shall an inebriate, or man under the influence of spirits, be held liable for any acts, or contracts, such as wills, marriage or bargains?

The question the medical man is asked is this: How far is the person in this state capable of appreciating the nature and consequences of his acts? Was his mind in any way impaired to that extent as to be unable to clearly realize his duty and obligations to himself and others? Was the act sane in its execution and reasonable consequences? These questions come up for an answer in the following cases: An inebriate who had drank at intervals for twenty years, had made a will disposing of a large property, and had repeatedly mentioned its terms with pleasure and satisfaction. At his death it was found that he had made another will giving most of his property to the *Freedman's Bureau* for the education of colored children. He had been a very miserly man all his life, and this was an unusual act. The will was made after a drink period, and he seemed to the lawyer and witnesses sober and fully conscious of what he was doing. The medical men held that the use of spirits had not weakened his mind or rendered him incompetent to dispose of his property.

In a *second* case, a man who drank to excess at intervals bought a large interest in a traveling circus while under the influence of spirits. He seemed perfectly sane at the time yet the act was unusual, and he sought to annul the contract, claiming that he was subject to undue influence.

In a *third* case, a man married a strange woman on a short acquaintance; he seemed conscious of what he did although drinking steadily at the time.

In the *fourth* case, a single man who drank steadily, married his servant, an Irish girl recently from Ireland. He was a man of culture and wealth, and the marriage was very unusual.

In a *fifth* case, now pending, a man while under the influence of spirits, placed his entire fortune in a stock brokers' company, signing elaborate, and detailed contracts, which he disavowed later.

The testimony of medical men as to the probable state of the mind, when these acts were performed, is the central evidence upon which the issue of each case must turn. The necessity of thorough scientific study of the mental condition of men who use spirits at intervals or continuously, and the application of all the facts that enter into the history of the cases in question is imperative. It is a purely physiological and psychological question above all legal bearings and common personal opinions current in public opinion.

An almost infinite variety of questions are appearing in the court-room with increasing frequency, involving these facts of the mental condition of the person who uses spirits. The following statement which I have made elsewhere, is sustained by clinical study and experience in all cases.

To-day it is shown that the action of alcohol

on the brain and nervous system is anæsthetic and paralyzant. The use of alcohol to excess at intervals or continuously always numbs and paralyzes the higher operations of the brain; the over-stimulated heart reacts and depression and feebleness follow. All the senses are disturbed and become more or less incapable of transmitting the impressions which are received. The brain is incapable of accurately comprehending the nature of acts and the relation of surroundings when under the influence of alcohol. The palsy which follows from this drug masks all brain action. Delusions of vigor and strength appear; events and their consequences, and motive and conduct are all exaggerated, misconceived, and misinterpreted, and the brain is unable to correct them. The pronounced delusions, illusions, delirium, mania, imbecility, and stupor seen in states of intoxication are only the advanced stages of brain conditions which begin with the first class of spirits. The early changed conduct and speech of men who use spirits are the first symptoms of the paralyzing action of alcohol. More spirits are followed by more paralysis, and finally all judgment and experience and all distinctions of right and wrong, of duty and obligation, are confused and unreal. The supposed brilliancy which follows from the use of spirits is unreal and transient—it is the glamour of the mind which has lost its balance and is unable to correct itself. No other drugs are known whose paralyzing effects on the higher brain centers are so positive and insidious. The inebriate and moderate drinker have always impaired brain force and nerve power. The automatic nature of their life and brain work may cover up this fact; but change the surroundings and demands of the brain, and its incapacity appears. Every toxic state from alcohol more or less permanently impresses and debilitates brain integrity.

The fear of the law and consequences of acts make little impression in such cases. The brain is anæsthetized and crippled, and cannot realize events and their nature and consequences. The crime committed by an inebriate cannot be the act of a healthy brain. The more pronounced his inebriety and the longer its duration, the more positive the disease and incompetency to reason and control his acts. The effort to fix a point in all disputed cases where sanity and responsibility joins insanity and irresponsibility is an impossibility which every advance of science demonstrates. It is equally impossible to use alcohol to excess for years and have a sound, normal brain. It is impossible in such a case to fully realize the nature and consequence of acts and obligations. It is a legal fiction to suppose that a crime or act committed while under the influence of alcohol was the voluntary act of a sane man. It is a legal fiction to suppose that a sane man would plan a crime or act, then become in-

toxicated for the purpose of executing it. It is a legal fiction to suppose that premeditation in crime or acts committed by inebriates is evidence of sanity and consciousness of his acts.

Questions involving the capacity or incapacity of inebriates can never be determined by any metaphysical theory of mind or morals.

It is an error for medical men to regard inebriety in any other except from physical point of view. It is a question of facts and their meaning. Facts of heredity, of growth, of culture, and training. Facts of disease, of injuries, of degenerations both local and general, of surroundings, and mentality, and of the entire history of the case, both physiological, psychological, and pathological. From these facts only can any clear conception of inebriety be obtained.

The general problems which are presented in these medico-legal cases are: *First.* Was the person an inebriate, or one who drank spirits to excess at all times or at intervals? If this fact is established beyond question, his sanity and mental capacity may be most reasonably and naturally doubted.

Second. What was the mental condition and the circumstances of the person at the time of the commission of the act in question. Was he sane? Was the act reasonable and just in its effects and consequences? If not, the first suspicion is strengthened, and the irresponsibility of the person must be assumed, and the legal theory must be reversed; the sanity must be proven, not the responsibility.

Third. The medical man has only to gather the facts, and have the reasonable assurance of their accuracy; from this he can point out the most probable conclusions which are sustained by such facts. The question is one of preponderance of evidence, which, if it points to defective consciousness of act and conduct, and inability of control, is far more likely to indicate impaired mind or insanity than any other condition. The limits of scientific study will not sustain, and will not support assumptions of boundary lines of responsibility and irresponsibility.

SCARLATINIFORM ERYTHEMA IN TYPHOID FEVER.

Read in the Section of Dermatology and Syphilography at the Forty-first Annual Meeting of the American Medical Association, at Nashville, Tenn., May 22, 1890.

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There is perhaps no class of diseases within the broad domain of dermatology which possesses more interest, both in a pathological and in an etiological point of view, than the erythemata. To an investigator this class becomes invested with so much of the alluring as to easily lead