

growth and the next week it was open. The anastomoses are so free and the blood supply so rapidly restored that I very much fear that this improvement did not last long. In reference to Dr. Souchon's remark about tying both carotids, I believe the time will come when the maxillæ will not be resected without tying both arteries. I performed an operation yesterday and intended to tie both arteries, but for fear that something might happen, I only ligated the one on the worst side of the neck. I did this on account of the lymphatic glands. When I reached around with my finger and brought up one of the glands, the external jugular vein came with it. The separation of this gland from the vein took some time and I had to discontinue after tying one vessel. I shall tie the external carotid on the other side within a few days if the patient will let me. In reference to ligating above the lingual, I could imagine nothing that would go further in preventing me from accomplishing what I want. To tie both arteries in the bifurcation is a good point. As seen in Dr. Parker's case, in three days the hemorrhage was so great as to require transfusion, and if one performs this operation expecting it to be a bloodless one, he will be very much surprised. The first time that I did the operation I was satisfied that I had tied the wrong artery. This extensive bleeding, however, can be quickly stopped by sponging, and I have never been called upon to apply ligatures in these cases. Healing has always been very complete. In reference to Dr. Souchon's remark about rupturing the coats of the artery, I was very much afraid to take up too much of the time of the Section and left out of my paper this and other points. I have been careful to avoid rupturing the coats, and always draw the ligatures until, placing my finger above, I find the circulation has been controlled. The knot I employ seems to be far more satisfactory than any others. (The author illustrated the "Ballance and Edmonds" knot.) In reference to the incision, one surgeon says one thing and one another. With a thin neck and the head drawn well back, all that is needed is a two inch incision. I was foolish enough to go around calling this a minor operation when I first performed it, but have since changed my mind, although I have completed it in less than ten minutes. The incision I have made has been parallel with the border of the sterno-cleido-mastoid muscle. When you get inside you can be guided largely by your finger. In my operation yesterday when I had my finger in position, I could perceive no pulsation. With the rapid breathing of the patient, feeling the pulsation is much easier to describe than to do. As to tying the common carotid, I dislike to take exception to this point. The claim of the external carotid over the common is its effect upon the superficial circulation. The mortality in the operation of tying the common carotid was 25 per cent., while that of the external is practically *nil*. Dr. Bryant, of New York, has done some work in this line and has said that the ligation of the common carotid when removing the upper jaw is unjustifiable. In a case where there is a malignant disease of the upper jaw, if on account of the glandular enlargement, it is impossible to reach it, I should not hesitate to put the patient to the risk of tying the common carotid.

VERDICTS OBTAINED THROUGH PERJURY.

Read at the Second Annual Meeting of the American Academy of Railway Surgeons, held at Chicago, Ill., Sept. 25-27, 1895.

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In presenting briefly a line of thought that might perchance be the means of bringing out a theme for discussion from the Fellows present, I present a subject that has not, to my knowledge, been even briefly presented before any body of railway surgeons, or before any medico-legal society up to this time. If such has been the case, I am free to say it has entirely escaped my observation.

It is barely possible that the theme lacks in interest, and perhaps is untenable. Yet it has occurred to me upon many occasions, when a claimant has procured a fat verdict from some innocent corporation, with the merits of the case built entirely upon air, together with the malingering symptoms set up by the claimant, prompted by the ever ready advice of his unscrupulous legal adviser, who perchance has taken the case on commission, or on the coöperative system,

that when the claimant has obtained his verdict and divided up the proceeds as best appeases the scruples of his attorney, which amount, by the way, is not always the lesser of the two halves, the astonishing rapidity with which the prosecutor regains his former good health prompts one to say that the verdict was rendered, not upon the true merits of the case, but that it depended and resulted from the unscrupulous testimony of plaintiff's apparent great suffering of pain, but strictly ephemeral in character, and from non-use, often showing atrophy of muscles.

With sympathetic friends as witnesses, who are quite prone to an elastic conception of the truth, at the same time quite forgetful of any important fact that might be at all advantageous to the defendant, and that ever-ready expert, who for a large consideration and statistics, might presumably be induced to so shape his views as to fortify the case against the corporation—with such an army, it is almost impossible for the sympathizing jury of twelve true and honest men to see any other way than to present a verdict which is supposed to be arrived at without bias, in such sum as will satisfy the claimant and make him comfortable for the balance of his natural life.

Corporations receive no respect or mercy at the hands of the ordinary jury of to-day. It matters but little how much merit or demerit any case for damages at the present time may possess. The usual result is quite probable to mulct the company for large damages.

Let it be clearly understood that no reference is here made to that class of cases in which corporations are honestly liable. This latter class almost invariably can be adjudicated through the proper claim department of any company, and generally with much better compensating results to the claimant than through the courts. It is to the malingering class I now wish to draw your attention.

It is true that it is often difficult to work out the wheat from the chaff in this line of cases, but when you see a claimant who has been so entirely incapacitated from the performance of any and all kinds of work appertaining to his vocation before the case comes before the courts, and his ailment and symptoms greatly magnified and increased while the case is on trial, who, when the jury rendered a large verdict in his favor, and almost simultaneously with the receipt of the check for the payment of his supposed wrongs, proceeds to the almost magic recovery of his former good health—of this class of fraudulent claims I desire to speak, and can see no reason why, in a court of equity, such cases of fraud can not be made to convert to the rightful owner the proceeds of the verdict so fraudulently obtained.

I am not aware of any effort ever having been made by any corporation to recover in a court of justice in such cases, and I think, should it be proven that the attorney in the case accepted the pushing of all such cases before the courts, upon a commission to be paid him from the proceeds of the verdict, and it can be shown afterward that the case is fraudulent, that he would be equally co-respondent with the prosecutor, and likewise amenable to the same treatment as the claimant.

In the recovery of money so obtained he should, in fact, be made a co-defendant in such cases in courts of equity. If possible to recover in a few well-conducted cases, is it not possible that it will point out

the way whereby those who now present such cases in court would hesitate before pushing such alleged injuries into litigation, and thus be the means of eliminating from damage accounts vast sums of money now unlawfully and wrongfully obtained?

The question might be propounded: How are we to prove the fact that the recipient of such favors by the courts of litigation are malingerers? "Out of the fullness of the heart the mouth speaketh." Only by his actions, and this is quite easy of accomplishment. Let us suppose the claimant in his declaration alleges total disability of one of the extremities. By proper coaching in auto-suggestion he will carry out the by-play entrusted to him by his informant, but will he do so after he has obtained the balm of a good sized verdict that can alone soothe the pangs of imaginary pain? Think for a moment that he can not, by any process of law, be compelled to return any part of the proceeds of his ill-gotten gains. No! And thus in a very short time he will so forget himself that his own actions will be sufficient to furnish such proof as would be needed to convict himself.

There is but little use in reviewing individual cases before the Fellows of the Academy. We have only too many such examples of perfidy upon the records of almost every court in the land.

This question of perjury is one that does not carry its import and penalty deep into the minds of the majority of litigants who are unscrupulous enough to accept a large reward from corporations for the settlement of malingering claims. If a few well marked examples of such cases of perfidy could be carried to a successful issue and to a conviction, it would be well worth the time and means expended upon the subject, for the penalty in almost every State is so great as to debar the perjured person, upon conviction, from many of the rights of citizenship.

In Pennsylvania it becomes a misdemeanor and, upon conviction, a fine of \$500, imprisonment by separate and solitary confinement at labor for a term of years, and it forever disqualifies him from being a witness in any matter of controversy.

While doubtless this subject belongs to the legal department of railways, it is yet true that the aid of the surgeon must be called into the study of the surgical consideration of the same, hence making it a medico-legal one, and as such can be rightly considered and discussed by the Academy.

We are trespassing upon virgin grounds and, perchance, are ill fitted to consider and bring out a sufficient number of points, convincing in character, to maintain the position taken. With some degree of truth it can be said that such action would be beneath the dignity of a large corporation. We hold that when right and truth are on the side of the latter, nothing can be adduced by the malingerer to balance the scales in his favor. For right and truth should and must prevail.

With this brief recitation of this somewhat intricate subject, I desire not to prolong it, but gladly submit the question to the Fellows of the Academy who are more learned in legal lore than I.

DISCUSSION.

MR. BECKER—Although not a member of the Academy, I will simply make a suggestion: That the claim for injuries may be handled to more advantage in those States where statutes have been passed permitting an examination by physicians of the plaintiff before trial. It was long doubted whether the sanctity of the person was such that it would be unconstitu-

tional to adopt such statute. That matter has been put at rest by the U. S. supreme court, and by the court of appeals of New York, which have held that there was no constitutional prohibition, at least in the State of New York, which forbids the adoption of such statutes. There is now in force a statute in the State of New York in which it is the right of any defendant in a case founded upon personal injuries, to have an examination of the plaintiff before trial by competent physicians. I lately had occasion in practice to put that in effect in a case very closely allied to this referred to by our learned friend in his paper, and discovered with very little difficulty that no such extensive injuries existed as was claimed. It seems to me that the remedy is easily to be found there. In very few cases of a proper examination before trial would fraud escape detection, and the extent of the examination is largely in the discretion of the court. I know of no other State that has adopted that statute except New York; there is such statute in New York that permits the examination of the party, describes how it should be taken, in the presence of a referee, by a physician duly qualified. There is, however, a ludicrous feature about it. Some generous-hearted individual in the legislature secured an amendment to the statute, providing that in a case where a lady is the plaintiff, she is to be examined by a physician of her own sex. It is a ridiculous thing in the statute. A good many speak of it as a kind of joke; it was so regarded at the time it passed, but it slipped through without objection.

DR. HATCH—I represent the Burlington & Quincy. There is a case now pending, a threatened lawsuit. These parties were injured about six weeks ago and they demand damages from the railroad company, and they employed an attorney. I represented the company, told them that if the company was liable and they were injured it was not our desire to have any litigation and I demanded an examination of the parties which they absolutely refused. I contend that as a representative of the company I have a right to do this.

MR. BECKER—The supreme court of the United States held that the right does not exist independent of the statute. There is no right unless there is some statutory action that permits it.

DR. GARDNER—I can relate a case similar to the one my friend here relates. It is the case of an injury on the Southern Pacific last October. As chief surgeon of the company I was sent down by our chief attorney to investigate the case and asked for an examination of the case by our physician at Los Angeles. It was refused. The request was made by Dr. Ainsworth through me and I was to be present. The case finally came to trial and in that case the request, such as my friend Dr. Hatch spoke of, was placed in court as a request of the company to show that we wanted to treat them fairly and to make the examination by not only myself, but a physician in the employ of our company. As a result the case was non-suited and finally was disbarred entirely. The moment you place the fact before a jury that a man refuses to be examined by a competent physician, who is recognized as reputable in the neighborhood and in the city in which he lives, it bears a certain weight with the jury and invariably the verdict is the other way.

DR. MAYNARD—My judicial friend on the right here has presented this case well, but I object to papers of that character being read and printed by this Academy. I have had twenty-odd years' experience with railway companies, and I know there is no gentleman in this room who does not know that the general managers or the claim departments of the different roads are inclined to use us simply as adjuncts to the claim department, and I do not propose in my railway service to be held in any such light. The more papers we have in that line, and the more discussion we have printed, the more we will be likely to be regarded as adjuncts to the claim department of the different roads. Our motto is: "The higher the order of railway surgery the greater the protection to the employé, the

passenger and the company," and I think we ought to confine ourselves exclusively to that, and not make ourselves, any further than we can help, fifth wheels of the claim department.

DR. GARDNER—I take exceptions to those remarks. In my instructions in my department, I will not allow a surgeon in my service to appear as an expert under any circumstances but purely to testify as to facts. It is a procedure I have adopted in my service and I insist upon it. I shall never compromise, and a man in my employ who goes up as an expert loses his job.

DR. DALBY—I do not see very much relevancy between the remarks of Dr. Gardner and our friend from Cheyenne, so I expect we are all in line. I think Dr. Kibler's paper is a good paper. The question as to the merit or demerit of its publication in our proceedings is one for the Association itself to determine. I think that our relationship with the various attorneys and railway organizations is a very close one. No railway organization can go into court with a suit without depending and relying more or less upon the officers of that company. I do not believe that they look upon us as the fifth wheel or the seventeenth wheel of the claim department, but they certainly do look upon us as being able to give them some information which we do have and which I think it is proper for us to give. Speaking on the question of getting damages on perjured testimony, it is something that those connected with a railway have often seen. It is brought about by various conditions. In Salt Lake City, invariably every man, woman and child bring suit against a railroad company, it makes no difference whether they have any visible mark or not, the suit is brought and the jury will invariably find for them in various amounts. I recall now, among several instances, a case involving an examination of the injuries. Six or seven months ago we had a suit brought against the Union Pacific Railway on the part of a mother and daughter. The mother was a lady of middle age, and the daughter somewhere in the vicinity of 20. The mother claimed damages for injury to the spine, the daughter brought suit for a fracture of the nose. Neither of these cases had been treated at any time by any surgeon who had any connection with the company proper at all. They were each suing for \$5,000 damages. The solicitors of our road asked permission of the court to grant me the privilege of examining them, as the company itself had no evidence or no idea as to the extent of these alleged damages. The court finally permitted me to examine the daughter for a fractured nose, in company with her attending physician, but denied me the privilege of examining the mother. Where the distinction came in I do not know. But in carrying out the ideas of the paper that the doctor just read, obtaining verdicts on perjured testimony, there was a girl who had been enticed to go into court for a claim of \$5,000 for a fractured nose. Her attendant physician claims he examined her nose and found some irregularity in the nasal passage; in other words, the nasal passages were not alike. He described very graphically during the trial of the case the condition of the girl. As a matter of fact, and as he agreed with me in the examination I made with him, there was a turbinated bone, which merely loosened up the one muscle. That was where he found his fracture, and that was all that existed. At any rate the jury returned a verdict for her mother for \$5,000 and the daughter for \$2,500, and I got the reputation of being a railway hireling for my own testimony.

Otherwise All Right!—Doctor: "Well, madam, how are you to-day?" Madam: "Oh, doctor, I have frightful pains all over my whole body, and it seems impossible to breathe; of course I can't sleep, and I have no appetite at all." Doctor: "Um—er—well, otherwise you're all right, aren't you?" —*Medical Press.*

CEREBRAL SYPHILIS, WITH REPORT OF CASES.

Read before the Chicago Pathological Society, April 13, 1896.

BY WILLIAM HESSERT, M.D.

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CHICAGO.

I need offer no apology for the introduction of a subject such as this, as it is well deserving of our attention by virtue of its high degree of importance in diagnosis and treatment. The frequency of syphilis of the nervous system is becoming more and more appreciated, thus securing for it an earlier recognition and the establishment of a more definite train of clinical phenomena than formerly. Gray, writing only four years ago, would make no more than a tentative diagnosis of cerebral syphilis, unless there were present, 1, undoubted specific infection; 2, convulsions or hemiplegia, or 3, marked success of specific treatment. Gowers, in his great work, allots to nervous syphilis no special chapter, referring to it among causative agents in the production of endarteritis, cerebral softening, hemorrhage, insanity, etc. I need not dwell upon the widespread prevalence of syphilis, which is one of the most important diseases with which we have to deal. Additions are made daily to the already enormous literature. How many of these cases of syphilis have undergone treatment which can be called approximately curative? Those that submit to the proper régime are certainly in the minority. Only too many of them are lulled into a state of false security by the rapid disappearance of tangible evidence of the disease, and discontinue treatment despite the admonition of the medical attendant.

A chancre of doubtful nature heals under indifferent treatment, or perchance is cauterized; no "secondaries" follow, leaving the individual in doubt whether he is syphilitic, until a subsequent nervous affection is undeniable evidence thereof. Fournier says that just those cases in which the manifestations on the skin and mucus membranes are scanty or absent, are prone to be followed by nervous lesions later on. Especially does this seem to obtain in women, who also are often infected unknowingly, a circumstance which provokes distressing errors in diagnosis, especially among the better classes.

On the other hand, a conscientious course of treatment for one and one-half to two years or more does not necessarily insure immunity from further trouble. Recognizing, then, the ubiquitous nature of syphilis, we should ever be on the alert in cases of nervous, especially cerebral, disease, to establish a possible etiologic connection. It will appear that an early diagnosis of these cases of cerebral syphilis, before irreparable secondary changes have been wrought, is of incalculable importance. After secondary degeneration and softening have become manifest, treatment will avail but little, and can not be compared to the success achieved in cases where the alterations are limited mostly to the membranes and arteries. It is for us to heed the warning note that is sounded by the appearance of prodromal headaches, irregular palsies of cranial nerves or slight aphasia, and not wait until a greater calamity overtakes the patient.

A maxim to which I heard Max Joseph, of Berlin, allude is a good one, *ubi dubio, suppone luenem*, and safely applicable in medicine generally, as it can do no harm and may be the key to the solution of a perplex-