

man for medico-legal work of this character. There is no valid reason to prevent the medical profession from taking the initiative in this much needed reform. The old time coroner is a foe to medical progress, and it is time to "move on his works."

AUTOPSIES AND PHYSICAL EXAMINATIONS.¹

BY DISTRICT ATTORNEY R. O. HARRIS, EAST BRIDGEWATER, MASS.

MR. PRESIDENT AND MEMBERS OF THE MASSACHUSETTS MEDICO-LEGAL SOCIETY:—Since I, somewhat rashly, agreed to read you a paper on the subject of "Autopsies and Physical Examinations," I have been afraid that you might feel that I had undertaken to invade your province and deal with a subject better understood by you than by me.

The two professions of medicine and law should go hand in hand in search of truth. Medicine, in capital cases, must often go first, and upon her judgments must the law base its proceedings. I find, in discussing the matter with physicians, that there are two opinions as to the purpose of the autopsy.

One school, if I may so term it, holds that the duty of the post-mortem operator is only to ascertain the proximate cause of death, and that the manner in which death came is of no concern to him. That is to say, if a man is found dead, with skull split or crushed, and a bloody axe or club is found near by, the operator can report the proximate cause of death as wounds upon the head, and that the axe or club would be an instrument adequate to give such wounds.

The other school holds that the operator is also an examiner, and that every detail should be noted, both of appearances upon the body, and of surrounding objects, and furthermore that nothing should be assumed or taken for granted. The latter opinion is the better one, and the reason is not far to seek. The very purpose of the autopsy is to obtain information, evidence. The examiner should therefore approach his case with mind open, unbiased and unwarped by theories or opinions. He should note *every* abnormal appearance. He should also note carefully the appearances following upon his own operations. The contents of stomach, bowels, bladder, and other organs should be accurately observed. Surrounding objects ought not to go unnoticed.

Very many of these things may be noticed and not reported. Above all, in a case when, by any possibility, a charge of unlawful killing may be made, judgment as to the *manner* of the killing ought to be suspended. The medical examiner is not a prosecutor; he has no power to commit or examine parties. His duty is to ascertain facts within a certain field, and instruct the officers of the law in regard to them. He cannot anticipate explanations or defences. If careful and thorough in his work, however, he can pass upon them when offered, and tell whether they are good.

This, I fear, may seem trite and uninteresting to you, and you may say that of course we should do all these things.

The experienced medical examiner, who has been in many trials, will do these things, because the importance of what I say has probably been borne in upon him at some time, and with great force. Let

me cite a few instances out of my own limited experience.

Several years ago a woman, of some seventy years of age, was found dead in her house. The body was found doubled up like a jackknife, in a closet, the door of which was closed. After the door was opened they could not close it again, owing to the rigidity of the body. The medical examiner, a skilful and intelligent man, called in another to assist him in performing the autopsy. Marks, as of fingers, were found around the throat. Evidences of death by strangulation were abundant, and vomitus was found in the windpipe and air passages. Death by violence was clearly established, and the *proximate* cause of death was clear. The physicians were not content to stop there, and examined the body minutely. A very slight abrasion or bruise upon the genitals led to examination of the vagina, and rape was clearly shown. The subject, both in age and personal appearance, had passed the time when one would have expected her to be the object of either solicitations or sexual attack. The choking might well have had robbery as its motive, and an examiner would be tempted to stop with that. The rape, however, once demonstrated, care required examination of the contents of the stomach and all the organs. The stomach assisted to fix the time of day when she died, as the remains of the last meal were found upon the table. No such food as the defendant told about was found either upon the table or in the stomach. The examiners were thus able to stamp his story as a lie. The rigor mortis also helped to establish the time. No one could possibly have anticipated what the story of the defence would be, but the complete *examination*, as well as autopsy, enabled the prosecution to bear down the defence completely.

In another case, again of an old woman, upon opening the head, the brain was found to be edematous, and the heart affected, and the proximate cause of death was apparent. Again a bruise upon the genitals, slight and easy to be overlooked, led to examination for rape. That once demonstrated, other bruises on the hands, arm, and legs, all slight, and none of fatal character, told a story much more important than that told by heart and brain. A bullet hole in the back of the head tempted one examiner to form his conclusion, and stop his examination. Upon being urged to go further, another hole was found, and the discovery changed the whole theory of the *case*. The word *case* I use advisedly, as the examinations are made with a view to gaining exact knowledge of facts, for use in further proceedings, not medical, and in the course of which the physician's may be a small, although very important, part.

It is impossible to anticipate the theories that may have their origin in the necessities of a defendant who has the assistance of ingenious and intelligent counsel. Unimportant bruises upon the body of a man that shows apparently clear evidence of foul and wilful murder may be the foundation for a theory of killing in self-defence, or at most of manslaughter.

The autopsy, at least the exact and careful autopsy, can be made but once. Only by thorough observation will you be able to successfully meet all theories, to fully answer all questions. Any one of you may be called in to assist at an autopsy at any time, and I am, unduly, perhaps, but earnestly, trying to impress upon you all the need of care. There are two par-

¹ Read before the Massachusetts Medico-Legal Society, June 5, 1900.

ties who have a right to demand it, the commonwealth and the accused. The commonwealth, while prosecuting all cases, never intends to convict the innocent, or to ask more than is due. The accused, when his time comes to speak, may state a case which some apparently trifling mark or condition, in its relation to something else, may substantiate. He is entitled to the benefit of your knowledge and of your testimony. Failure to observe, and consequent inability to testify to the existence of such mark or condition, will carry the presumption that it did not exist, and may deprive an honest defendant of his life or his liberty. I have spoken of care in observing the results of your own work. Recently one of the most skilful operators in the State had to face the proposition that the appearances in the vagina that were claimed to be evidence of rape were caused by him in the course of post-mortem operation. Absurd as it seems, it was yet seriously urged that the lower blade and end of the entrotome scissors, in the hands of a skilled examiner, caused the tears that are characteristic of rape. The experts for the defence finally took the ground that it "was possible, but not probable." Could the theory have been anticipated, the positive answer would have been ready. As it was, the surgeon could only say that he did not cause the wounds. Probably no one believed that he did, and yet it was a suggestion of a possibility, and such suggestions, in capital cases, are sometimes as good as proof. The operator who has to admit that he did not observe any abnormal appearance, or the results of his own work, may sometimes find himself in the uncomfortable position where he knows, but yet cannot testify as of his own knowledge.

Passing from the autopsy, and coming to physical examinations of the living, I am aware that I come upon dangerous ground. Let me preface what I shall say by the remark that my own profession is open to much criticism in the matter of expert testimony. I am aware that it is, by some, looked upon as legitimate to construct a theory, and go from expert to expert until one is found who will testify to suit. Still, the average practitioner goes to his expert for an unbiased opinion, seeking only to know how much of a case he has got from the medical side. It is a trifle disturbing and dazing to have a man whose skill as a specialist in certain sorts of cases is well established, and to whose care you would gladly give yourself for treatment, tell you that a client who has been in a railroad smashup isn't hurt, but is "faking."

When one has known a person in health and vigor, has seen him emerge from a wreck, bruised, shaken, lame, and in such condition that he has to be put to bed; when in the train of the accident come positive symptoms, noticed by physicians, nurse and family, symptoms that never before existed, it is disheartening to have your specialist say that they have nothing to do with the accident, but are merely "coincident." I have known of a physician's refusing to see an injured person, and saying that such an accident or injury could not possibly account for the conditions that followed, and that the patient must be lying. Even when a skilful and reputable local physician has observed and treated positive troubles, which the nurse has had to give attention to, troubles which followed immediately upon the receipt of a heavy blow, I have had the expert calmly declare that physician and nurse must be telling untruths, or the symptoms must be concurrent without being conse-

quential, because in his opinion no such trouble could result from such an injury.

We who are not physicians believe that the swelling that follows when we bump our heads is caused by the blow; that if we are well and sound one minute, and the next are a mass of bruises and lameness as the result of a railway or other accident, the lameness and subsequent disturbances are attributable to the collision. The tendency is to divide men who are supposed to be, and who are in fact, learned and skilled men in surgery into two camps, plaintiff's experts and defendant's experts, the members of one ready to agree that almost any result may come from any injury, the others poolpoohing at everything and saying, "impossible, impossible," to everything. The result is that the expert has become a partisan. He cannot treat his case as he does his patients, disinterestedly. He is bound to one side of the case, and is always a plaintiff's or defendant's expert. This has become so marked that some men will say to us when we seek their opinions, "Go to So-and-so, he is more sympathetic than I am; I can't testify for a plaintiff," or else, "I am not the man you want; So-and-so is a good defendant's expert." These things have been said to me when I have gone to good men, whom I have met in cases and found to be skilful.

This may seem to you like mere scolding, but you must remember that it comes from a member of another profession. I try on both sides; I have to consult your profession; and I can see no reason why, if it chances that, when trying for the plaintiff, I meet a physician whose opinion seems to me to be entitled to weight, I should not consult him when I need a man for the defence to instruct me as to medical facts or probabilities. All I want is his best knowledge; when I get that, I can shape my own course. As in the case of the autopsy, the physical examination is for the purpose of gaining information, evidence; of establishing that a condition does or does not exist and testifying accordingly. It is not intended for the purpose of enabling you to ascertain conditions, and then raise theories to account for them that have no foundations except in theory.

You come to us for opinions in law, based on facts stated, and you do not want us to suppose some other facts and give opinions based on them, and you do not want us to tell you that your facts are mere imagination.

Pardon me for being so long, but believe me that I am moved to say what I have only by my desire that our two great professions may be held in the esteem to which they are entitled.

THE MORTALITY OF FOREIGN CITIES. — The following statistics are, according to the *Medical Press and Circular*, the latest official returns of the mortality in 26 cities in widely separated parts of the world, and represent the last weekly death rate per 1,000 of several of the populations: Calcutta 36, Bombay 75, Madras 75, Paris 16, Brussels 13, Amsterdam 12, Rotterdam 15, The Hague 13, Copenhagen 16, Stockholm 13, Christiania 13, St. Petersburg 25, Berlin 21, Hamburg 17, Dresden 29, Breslau 22, Munich 29, Vienna 16, Prague 18, Buda Pesth 15, Rome 16, Turin (ten days) 16, Cairo 42, Alexandria 37, New York (including Brooklyn) 19, Philadelphia 15.