Golden rules of medical evidence / by Stanley B. Atkinson.

XVI.

Golden Rules

OF

Medical Evidence.

GOLDEN RULES

OF

MEDICAL EVIDENCE.

BY

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PREFACE.

The science, the art, and the correct estimation of the value of Medical Evidence is the province of Forensic Medicine.

It is hoped that this little book will aid the General Practitioner when he is called upon to offer medical testimony, so that the ancient inquest jury especially may fully appreciate the bearing of the technical facts he narrates. Those who pose as "experts," should *ipso facto* be themselves authorities on the matter and the manner of bearing testimony.

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INDEX.

Golden Rules of Medical Evidence.

EVERY legally qualified and registered medical practitioner in actual practice in or near the place where the death in question happened, by the Coroners Act, 1887, may be summoned by the Coroner to give medical evidence as to the cause of that death. Thus medical men may be compelled to practise medical jurisprudence if called upon so to do. With the growth of knowledge and exact observation, the weight which is attached to medical evidence has increased proportionately. It is still

true, however, that "the exercise of a sound judgment, which is of far more value in medico-legal matters than all the substance of all the ancient *medicina forensis*, must be our guide."

The **Coroner's Court** differs from other tribunals in that, primarily, it conducts an enquiry to which there are no formal parties. The evidence received by this Court is on that account much less bound by technical rules.

Classes of Medical Evidence and Witnesses.

The evidence of

I. **Common witnesses of Facts which they have observed.** They state the minor premiss of the forensic argument. Those who can describe technical matters which they have seen are *skilled common witnesses:* medical men usually appear in court as skilled witnesses. Job's "I shall see for myself,

and my own eyes shall behold, and not another,'' indicates the correct attitude of a common witness of fact.

The testimony of

II. **Expert witnesses concerning their Opinions.** They state the major premiss of the syllogism, whose conclusion is found in the verdict of the jury. All expert witnesses should be skilled witnesses. Experts sometimes become common witnesses when examined as to exhibits produced in court. The weakness of expert testimony is, in practice, its *ex parte* nature. Medical men called to give evidence as to fact, must beware of being unconsciously drawn into offering expert testimony.

I. PREPARING AND GIVING EVIDENCE.

A. BEFORE ENTERING COURT.

Notify directly to the Coroner all deaths, the certificate of the cause of which you are unable to sign (persons found dead—whose death was caused or hastened by accident or injury—who have died without recent medical attendance—who, although attended by a registered medical practitioner during the last illness, have died in such a manner or at such a time, that the medical man is unable to assign a cause of natural death, or for some good reason declines to certify the cause).

Most of the cases in which you give medical evidence are those in which you have declined to sign a certificate of the cause of death.

There are also those cases in which the relatives object to your treatment, and those in which the registrar refers your certificate to the Coroner.

The fact that the account for professional services rendered is likely to be unpaid is **not** a good reason for refusing to sign a death certificate.

Decline to give medical certificates to police-constables or to solicitors' clerks gratuitously, and without authority being shown.

Demand a formal interview by appointment during professional hours with a responsible superior; otherwise you may receive no fees.

Volunteer no private information, and express no opinion in public, concerning medico-legal causes with which you are not personally concerned; otherwise you may be *sub-pœna'd* to support your

views. If you know facts which will aid the execution of justice, give a **hint to the police** either yourself or by a medical friend.

Give information *viva voce* or in letters marked "private." Never write an unofficial opinion. "Do right, and don't write—then fear nothing."

Should you receive threatening letters, demanding blackmail, or otherwise without reasonable cause, at once put them into a good solicitor's hands. "Let this action be a lesson for all men to stand boldly forward—to stand on their character—and not, by compromising a present difficulty, to accumulate imputations on their honour." Associate yourself permanently with a Medical Defence Society.

Unless in self-protection, or at the request of patients, do not appear in

court without having been properly served with a formal *sub-pœna*.

Do not fail to attend after receiving a formally served *sub-pœna*, on peril of contempt of court and an action for resulting damages on the part of the litigant calling you as a witness. You need not afford a *precis* of your evidence. "He [or they] must be satisfied with impromptu answers." When in doubt or difficulty, seek at once the best legal advice possible.

To Escape Attending as a Witness:

In Coroners' Courts. Written certificates are usually accepted in Coroners' Courts from members of hospital staffs and from general practitioners concerning the absence from ill-health of witnesses or jurymen; the nature of the illness need not be specified. In higher

Courts personal attendance and evidence upon oath are necessary.

In Civil Courts. If an appeal to the solicitor fails, you may state that your memory of the events in question is vague, and when prompted you may find that the facts as known to you are quite hostile to his client's claim.

You may decline to offer "**expert opinions**"—a direct interference with the facts and circumstances of the case alone **qualifies** you as a common skilled witness who is bound to give evidence if required so to do.

The Preparation of Evidence.

"More mistakes are made, many more, by not looking than by not knowing." You must be ready to meet an **exhaustive interrogation** in Court: hence it is essential that a careful clinical or *post-mortem* examination should

be made, with the aid of all reasonable modern apparatus, and that what is known professionally concerning the matters in hand should be revised from modern text-books: your knowledge of pathology must be up-to-date. "You must know a thing before you suspect it, and you must suspect a thing before you find it."

Remember you are not a partisan: value accuracy of observation and of statement as you do your professional reputation.

You must be prepared to **explain facts and conclusions clearly** to a body of laymen.

Beware of mistaking a previously formed inference for a recollection of actual fact—assumed conclusions sometimes fallaciously suggest the real cause. "The chambermaid, in the background, made out as much of the letter as she

could, and invented the rest; believing it all from that time forth as a positive piece of evidence." *Stat pro ratione voluntas* is a fallacy to be guarded against.

Welcome, and even suggest, **conferences** which will avoid subsequent public differences in medical opinions.

Decide what exhibits and sketches you will hand in. Label, initial, and number them. If they are returned to you after the trial, preserve them for possible future use (e.g., pathological specimens).

Previous to the trial keep all notes and exhibits **under lock and key.**

Remember medico-legal evidence is subject to certain **limitations**—your "facts" may be absolute, or probable, or merely possible (see p. 45).

Refresh the memory from your

clinical or other notes just before giving evidence rather than when in the witness box.

Any **notes read in the witness box** are open to the inspection of the Court. They must have been made by you at the time of the event in question, or immediately thereafter.

All clinical notes and personal memoranda should be destroyed upon the death of a medical practitioner, who should see that his Will contains such a direction.

Medico-legal Examination of the Living, the Dying, and the Dead.

"The best memory is a record **made at the time.**"

Make a note on the spot as to the person examined, the place, the date, and hour of the commencement of

the examination. Daylight should be chosen.

If possible, choose a time such that you can complete the enquiry at one sitting, as it may be final.

Where criminal charges may arise, **associate the police** (and, when necessary, the relieving officer) with the case at once. If called by a police-constable, do not fail to note down his number (from his collar).

Decline to perform technical processes which are probably beyond your skill: thus the Coroner will usually secure the permission of the County Council for analyses in suspected poison cases.

Exclude lawyers and curious laymen, but invite another medical man, especially if your own previous actions may be in question.

Whatever you discover must be **kept secret** until you give evidence in court.

As a matter of courtesy, the Coroner may be informed privately, before the inquest is held, of any unexpected or grave results; do not, however, inform press men.

Medical Examination of the Living and of the Dying, for the Purpose of Evidence.

All persons examined physically **must be informed** of, and **consent** to, the purpose and possible legal consequences.

Never take directions from a third person (e.g., police, magistrate, employer).

If a **further examination** may be necessary (e.g., under an anæsthetic), that fact should be stated.

Witnesses should be present, especially in the case of the examination of females.

Do not send written certificates to third persons as to the result of the examination, unless (1) In an open envelope, having read the certificate to the patient who takes it to its destination; (2) After having received the written consent of the patient so to do.

The payment of the fee by a third person does not absolve from the rule of professional secrecy.

The symptoms and **feelings of a patient** are sometimes admitted as (hearsay) testimony from a medical witness, especially where the former is dead. **Letters** from a patient to a medical man containing such statements are not allowed.

A **confession** (which must be quite voluntary) or a **dying declaration** (from the lips of a victim of homicide convinced of impending death) made in the hearing of a medical man should be

noted down at once, word for word, and, in the absence of a magistrate, signed by all persons present. Should death be imminent after a criminal assault (which includes abortion), the medical man should urge the victim to make such a dying declaration.

If a patient is sent to gaol or an asylum, communicate at once, but privately, with the medical officer should you know of any **mental or physical abnormality.**

Examination of the Dead.

Do not order the removal of a dead body; leave that duty to the police or to the Coroner's officer.

Forbid, however, any disturbance of a body to which you are called until you have seen it and the circumstances.

1. Where the Coroner orders "evidence touching the external appearance

of the body, and the cause of the death" :

The body should be identified in your presence; if it cannot be identified, special care must be taken with the inspection. A photograph should be taken at once.

The appearance of the corpse, both when clothed and when stripped, must be noted.

In all cases the probable time of the death must be estimated.

The presence and nature of parasites must be recorded.

Should the cause of death still **remain obscure** after a complete inspection, the Coroner should be informed of the fact and requested to order an anatomical *post-mortem* examination of the body.

2. Where the Coroner orders a **full post-mortem examination**, thus:

"You are required to make or assist in making a *post-mortem* examination of the body, which shall comprise an examination of the viscera of the head, chest, and abdomen, and, if necessary, an analysis of the contents of the stomach, and report thereon at the said inquest." As to the analysis, see the Home Office Circular (Jan. 7, 1903).

The body must not be opened until the Coroner's order has been received; apart from inquests the **consent of relatives** must be secured before a body is dissected.

Wherever manslaughter or murder is suspected, the Coroner will order a necropsy as a matter of course.

If the deceased's friends **charge you with negligence** in treatment, you must not conduct the examination.

Do not commence **until the body is cold**; do not delay until marked putrefaction has set in.

Have all necessary appliances at hand;

having once started **do not leave the room** until your final note has been made and signed.

Do not employ a hammer or a chisel.

Remember that it is dangerous to attend lying-in women after making an autopsy.

If the mortuary attendant does the manual work you must watch each step.

If portions of organs are retained for subsequent examination, have the fact witnessed.

Drawing up a Medico-legal Report.

In most cases the witness must recite the report in open court.

For a complete investigation three sets of facts must be collated:

1. The details of the environment of the corpse, when and where first seen.

2. The personality and personal history of the deceased.

3. The result of an exhaustive external and internal *post-mortem* examination.

a. The Manner of the Report:

Reports should be **short** and **distinct**; all unnecessary words should be omitted.

The paragraphs should be numbered: this facilitates reference.

Names and figures must be written plainly, and underlined.

Technical terms should be used only if the report is intended for the use of a public authority; if used otherwise they should be explained.

Beware of writing "There is no . . ." when you intend to report "I can find no . . ."

Exclude uncalled-for reasons, opinions, and comments.

"Science is measurement." Everything that can be, should be **measured.** Anatomical and chronological order and exactness should be aimed at.

For immediate comparison, quote easily recognized English standards.

"The *sometimes* of the cautious is the *often* of the sanguine, the *always* of the empiric, the *never* of the sceptic: but the numbers 1, 10, 100, 1000 have but one meaning for all mankind."

In important cases the report should be type-written in duplicate and signed, one copy being handed to the Court.

b. The Matter of the Report:

The date and time of day of each examination, and the names of all persons present thereat, should be stated.

There must be a very sharp division made between:

(a) **Information** received and from whom—this is hearsay.

"Never believe what a patient says another doctor said."

Never sign a certificate to oblige another practitioner, without personally examining the patient.

(b) **Facts** found by personal examination or under personal supervision.

The results of a complete methodical external (anterior and posterior) and internal investigation must be detailed; the condition of the **diseased organs** may be recorded first, the **healthy organs** being mentioned after, exhaustively.

After entering all the pertinent facts, summarize the **main points**, and conclude with the **probable cause** of the pathological conditions found.

Sign the report, affixing your medical

qualifications and the date; secure the signature of other medical men who may be present. While in your care, keep the report under lock and key.

Append any **sketches** or **photographs**, carefully numbered, which elucidate the case.

Retain an identical copy of the report for reference.

B. WHEN IN COURT,

Before Being "Sworn."

All testimony given at this stage is null and void, and may render the speaker liable to an action for defamation. Do not omit to be "sworn" before speaking.

Should you wish to object to giving evidence on the grounds :

a. That your fee (for expenses and loss of time) has not been paid by the solicitor calling you.

b. That you are unwilling to pose as able to give "expert opinions."

c. That you may possibly incriminate yourself:—

this is the stage at which you should say so.

There is now complete emancipation from "the insanitary oath." For the sake of public example you should decline to "kiss the Book" unless you have brought a Testament with you. Insist on your right either to affirm or to swear by the Scots method.*

* Say "I solemnly, sincerely, and truly declare, and affirm, that I will tell the truth, the whole truth, and nothing but the truth"; *or*, raising the right hand, say: "I swear by Almighty God, as I shall answer to God at the last day of Judgment, I will tell the truth, the whole truth, and nothing but the truth."

After Being "Sworn."

Whatever you say in giving evidence will not render you open to an action for slander.

The privilege of a witness under examination is extended to a witness making statements to a solicitor preparing his "proof."

State your full name and address. Then say, "I am a registered medical practitioner"; your exact qualifications are immaterial.

Giving Medical Evidence.

(*Cf. Reports, p.* 24.)

"There is matter in manner." "Tell the truth, and make the truth tell." "Be the plainest man in the world in the witness box." "All trifles are not trifling." "Pathology creates the doctor, as distinct from the nurse."

The Manner.

Listen to the whole question before

you attempt to reply: then answer only what is asked. Make yourself understood.

Don't assume that the jury know all about the case.

Speak audibly, slowly, deliberately, with an eye on the recording clerk's pen.

Say **exactly** what you mean.

Cultivate the power of expression and of repression.

Be candid, courteous, dignified, and withal good humoured; **avoid** appearing to be suspicious.

Your **personal** disposition will count more with a jury than your professional position; they will note looks, doubts, hesitations, confidence, calmness, consideration, or precipitancy.

Use **simple** and popular **terms**, otherwise you may be regarded as speaking "either oracles or jargon."

Reserve technicalities for cross-examination. The jury will think they understand "alcoholic disease of the . . .," "bad disorder," "black and blue," "black-eye," "blood clot," "blood poisoning," "bowel," "brain fever," "bruise," "buoyant lungs," "cancer," "consumptive spots," "coverings of the brain," "death stiffening," "great vessel of the heart," "gullet," "gut," "hardened liver," "hardening of valves," "inflammation or congestion of the . . . .," "overloaded with fat," "shrunken kidneys," "skull-cap," "stroke," "swallow," "sweet-bread," "windpipes."

Don't worry about the **technical rules** of evidence; in the Coroner's Court they are seldom applied strictly.

Insist on answering double-barrelled questions "**Yes** AND **No**" if necessary.

Do not argue with Counsel; "dis-

agree without being disagreeable." "A large experience is not all experience," and what you call "a rare case" may reflect upon your limited experience.

An early "I **don't** know" is better than a late "I **did not** know." If you "don't know," do not be trapped into guessing. Beware of "argumentative figures."

The Matter.

If unable to decide as to the cause of death without a *post-mortem* examination, tell the jury so at once; the most experienced pathologist will do so the most often. Thus you may tell them, by way of apology, that any organ of the body may be ruptured without external signs of injury being apparent.

Distinguish **what you have been told** from what you have found by personal examination.

A knowledge of the facts differs from a knowledge of the records of those facts.

State what you **knew professionally** as to the health and the habits of the deceased, but do not condescend to detail; it is sufficient to say, "I treated him," or "I prescribed;" you need not specify **how** unless required so to do.

Don't offer any explanations unless directly asked; decline to give "expert opinion" testimony unless you feel fully competent so to do.

The jury value evidence by the exactness of statement of, and the powers of observation evidenced by, a witness. Little benefit is gained by cross-examining one who is obviously telling the plain truth.

Don't exaggerate or estimate—"blessed are the pure in fact" in a law court;

in measurements and descriptions be accurate, quoting figures where possible.

You must answer **all questions** put to you, excepting such as would tend to incriminate yourself ; before you answer such questions, the Coroner must warn you of the possible legal consequences if you answer.

There are no medical secrets which may be kept between a patient and his medical adviser when they are probed in a court of law: if, however, you strongly object to answer, appeal to the President of the Court, or answer in writing.

Think twice before adversely criticizing the actions of another medical man; remember, **symptoms and signs may alter** from day to day.

You may not quote text-books of

living authors, but you may say what authors support your view.

If a text-book is quoted for or against you, **strictly verify** the text, the context, and the date of publication, before affirming or denying the quotation.

After giving evidence, hand in the labelled and numbered **exhibits** which have been handed to you by the police or found by yourself. "Real evidence" is, however, capable of fallacious handling, e.g., "Here's the note! I made it at the time!"—but *did* you?

It may be wise to take an "anatomical" skull into court for illustration.

The body of the Coroner's officer is always available for ocular **demonstrations** to the jury of the sites of injuries, etc.

If any important point has been omitted by the questions (e.g., of a

non-medical Coroner), volunteer the undisclosed information which you possess.

In conclusion, state the probable **cause of death**, especially assuring the jury if it was, in your opinion, natural; and if it could have been retarded by efficient medical advice.

Beware of being didactic on non-medical matters; such action is a fruitful source of the "differences of doctors."

Before leaving the witness-box, **compliment** the conduct of the police or other persons who rendered worthy "first aid" to the deceased man.

"The best brief is a copy of the depositions." When criminal or civil proceedings are likely to follow an inquest, carefully read over and correct where necessary your depositions as taken down by the Coroner's clerk;

initial any alterations you make, then sign them as a correct record. Never sign any statement without having perused it previously.

You can thus readily **identify the depositions** later, when you may have to repeat your evidence in a higher Court where counsel will have scrutinized minutely not only the **facts stated** but also the **facts as stated**: and so will be able to criticize keenly your second version.

In criminal cases the Coroner will **bind over** the medical witness by recognizance to appear at the trial and give evidence; usually such cases are taken first at the Assizes.

II. RULES AS TO FEES.

No fee can be claimed for merely **volunteered** information, given either in Court or previously.

If you attend the Court after being *sub-pœna'd*, the fee is due, even should **no evidence** be called for.

Do not sign a receipt before you have received the money.

Apart from agreement to the contrary, an assistant or *locum tenens* must hand his fees to his principal.

Where the authorities **compel attendance** in the public interest, definite fees are scheduled: if you appear on behalf of the prisoner, the plaintiff, or the defendant, a **private arrangement as to fees** (preferably in writing) must be made between the solicitor and yourself.

1. THE CORONER'S COURT.

There is **no fee** allowed for the **preliminary enquiry** and report to the Coroner; he can allow a fee only at an inquest.

No fee will be paid for an unordered anatomical *post-mortem* examination.

Only one medical witness is called by the Coroner; additional evidence may be ordered by the inquest jury.

A second fee is **not allowed** for attendance at an adjournment.

A *post-mortem* examination must **not be conducted** by one accused on oath of negligently causing the death in question.

No fee, for evidence or for *post-mortem* examination, is payable to the medical officers (even if honorary) of voluntary medical institutions where the deceased died under the care of the officer; his

attendance may, however, be excused if he sends a certificate as to the facts to the Court.

No fee allowed: Lunatic Asylum; Public Hospital or Infirmary (including Cottage Hospitals).

Fee usually allowed: Prison; Parochial Infirmary.

Where the deceased was "brought in dead," the usual fees may be claimed by medical officers of institutions.

Travelling expenses seldom can be due to medical witnesses at inquests.

In **criminal cases** the Treasury may send down recognized experts.

Fees: For giving medical evidence after inspecting the body: ONE GUINEA.

For giving evidence after performing a necropsy in accordance with the Coroner's order (or upon direction of the majority of the jury): TWO GUINEAS.

Fine: FIVE POUNDS is the penalty for disobeying the Coroner's instructions.

2. CRIMINAL PROCEEDINGS.

(*Vide* Home Office Order as to allowances for professional evidence in criminal prosecutions, 1903.)

For common skilled witnesses in petty sessional and police courts, at quarter sessions, and at the assizes, certain maximum **allowances** are specified; it is left to the Clerk of the Court to decide the actual fee in each case.

For **expert** testimony or highly skilled evidence the fee rests with the Court or the Treasury.

For attending to give professional evidence **in the town** or place where the witness resides or practises: If the witness

1. Attends to give evidence in one case only, not more than **one guinea**

per diem, even if a disagreeable examination has been necessary in order to qualify as a witness.

2. Gives evidence on the same day in two or more separate and distinct cases, not more than **two guineas.**

For attending **elsewhere** than in any town or place where the witness resides or practises, whether in one or more cases, not more than **two guineas** per diem. "Place" here means the area within a radius of three miles from the Court.

No full-day allowance shall be paid unless the witness is necessarily detained away from his home for **at least four hours** for the purpose of giving evidence, otherwise he shall receive not more than one-half of the full-day allowance.

The fare actually paid is usually allowed to a witness as travelling expenses.

A medical witness, while staying within the precincts of the Court, may be ordered to assist with his professional services.

In case of dispute, the Home Secretary, Whitehall, S.W., should be applied to forthwith.

3. CIVIL ACTIONS.

If your services are required by **one party** to a suit, it is for you to arrange terms; the solicitor is not himself liable. **A guinea** per diem usually is regarded as the minimum fee; travelling expenses (which should be paid in cash previous to the journey) are additional.

You can **demand** payment (in Court) before you consent to be "sworn" as a witness; having been "sworn" you are bound to give your evidence.

III. SOME LIMITATIONS TO MEDICO-LEGAL EVIDENCE.

1. IMPOSED BY RULES OF EVIDENCE.

A medical witness, **as such**, cannot give evidence which will influence the Court to show

1. That a woman is past the age for procreating and bearing children.

2. That a child born nine months after lawful wedlock is illegitimate.

3. That, in the absence of eye-witnesses, a newly-born dead child was live-born.

4. That in a common disaster a certain person must have died last.

5. That children under seven can commit an indictable offence.

2. IMPOSED BY INADEQUACY AND UNCERTAINTY OF KNOWLEDGE.

1. The presence of gonorrhœa cannot be established by microscopical evidence.

2. A small mammalian blood-stain cannot be sworn to be "human."

3. In a case of sudden death you cannot state whether a bruise was inflicted immediately before or immediately after the death.

4. The sex of a very old or a very young skeleton cannot be determined.

5. The age of a skeleton, after complete ossification, is guess-work.

6. Death cannot be affirmed until putrefaction sets in.

7. Pregnancy must not be asserted until quickening has been felt, or the fœtal parts are palpable.

8. Affiliation to putative parent from personal resemblance is insufficient.

3. CASES WHERE A POST-MORTEM EXAMINATION IS NECESSARY TO TEST

1. *Alleged Drowning:* otherwise in the absence of eye-witnesses of the fatality, "found dead in the water" is the only logical conclusion.

2. *Alleged Overlaying:* otherwise "found dead in bed with the parents" should be the "open verdict."

In 1 and 2, cardio-respiratory diseases must be noted.

3. *Alleged Still-birth:* for although live-birth cannot thereby be proved in the absence of direct eye-witnesses, the lungs may have functioned.

4. Anatomical *post-mortem* examinations should be performed wherever possible in medico-legal cases; they are essential in alleged criminal homicide.

IV. VITAL ACTIVITIES WHICH MAY HAVE IMMEDIATELY PRECEDED SUDDEN DEATH,

1. *Respiration:* Soot or froth may be in the mouth, trachea, or nostrils.

2. *Deglutition and Peristalsis:* Local water or blood may have been swallowed; food may be in the stomach (e.g., of the newly-born); vomit or fæces may have been voided; salivation may have been profuse.

3. *Blood-Circulation:* Much blood may have been lost, possibly having "spurted" (e.g., in the newly-born); the heart and vessels may be empty; there may be true extravasation into or hyperæmia of the tissues (a microscope will reveal reaction to an irritant); the veins may be swollen on the distal

side of a ligature; the blood may give spectroscopic tests for poisonings.

4. *Neuromuscular:* Articles may be clutched e.g., weapons, grass ("a drowning man catches at a straw"), hair, mud; *cutis anserina* may be present; *emissio seminis* or abortion may have occurred; the eyelids are usually open at death; children are usually born with the eyelids sealed.

V. HEARSAY TESTIMONY: MEDICO-LEGAL EXCEPTIONS TO THE GENERAL RULE WHICH FORBIDS THE RECEPTION IN COURTS OF SUCH TESTIMONY.

1. The rule is not strictly observed in the Coroner's Court, wherein an enquiry, and not a trial between parties, is held.

2. Formally recorded dying declarations; the medical adviser often hears "the last whisper of life."

3. Spontaneous and voluntary confessions are sometimes made to medical men.

4. Where the statement in question was part of the proceedings under investigation, thus:

a. The complaints and natural expressions of a patient as to what

he feels: his words aid in deciding the course of treatment.

b. The natural expressions of a frightened person, who has not had time to concoct a lie: thus after personal injuries, indecent assault, or rape.

VI. PRECAUTIONS TO BE OBSERVED UNDER SUSPICIOUS CIRCUMSTANCES;

WHICH MAY TERMINATE IN THE CORONER'S COURT, AND NEED MEDICAL EVIDENCE.

The primary duty of a medical man is to treat every patient *as a patient.*

1. Chronic or slow poisoning (including alcoholic).

Cautions. Try all possible preventive means before announcing the suspicion; do not move until your ground is quite sure: otherwise an action for defamation of character may result.

The family medical man must not be misled by the suspicions of weak-minded or alcoholic patients; he must exclude every possibility of an accidental origin of the symptoms. He should know the

several personalities of his patient's families.

The symptoms may appear during medical treatment: poison being substituted as "a lingering dram."

If convinced, by repeated examination of the patient's food and excreta, by his symptoms, and by the conduct of the suspected person, that the influence of poison is at work, let it be understood by the patient's friends that you are not satisfied with the progress made: suggest the possibility of an accidental poisoning. Do not, at present, associate any name as the culprit; suggest a consultation with a medical friend.

Have the patient placed under the constant care of day and night nurses, who, although being instructed to administer personally all food and medicine, need not know at first your suspicions.

If the line of defence is circumvented, or is impossible, have the victim removed to a nursing home, or to a hospital.

Your suspicions, without mentioning any name, should be told *viva voce* to the relatives of the poisoned person, to his solicitor, or to the suspect himself. If this course is futile, the name can be introduced in the information given to these persons, to the patient himself, or, finally, to a magistrate, or to the police. Should the victim die, the Coroner should be asked to order an expert toxicological examination of the body of the deceased.

2. Threatened suicide.

"There is a rule of life far higher than professional etiquette—a duty that every right-minded man owes his neighbour—to prevent the destruction of human life."

"Sign an urgency certificate, so that the patient can be detained in his own house legally. Any step which is taken, which is in good faith, with the intention of certifying, is justified, and is covered by the law."

Attempted suicide.

Special care must be taken to prevent a further attempt by constant unobserved watching. Delirious, melancholic, suicidal, and mentally defective patients are preferably placed on the ground floor.

3. Where a patient dies suddenly from a cause which is obviously not the one under treatment—as when anæsthetized, or after an operation.

Enumerate to the friends the possible explanations of the fatal issue. Affirm that there is no reason to have expected

any one of them, and that all the usual precautions had been taken.

Report to the Coroner, or advise, where such report is considered unnecessary, that an anatomical *post-mortem* examination should be conducted for the satisfaction of all parties concerned.

VII. SOME STEPPING-STONES OF MEDICAL EVIDENCE.

1200 Pledge to answer truly appears.

1215 Trial by Ordeal abolished.

1275 The Coroner's Ordinance. The inquest jury were the witnesses also; inspection of external appearances was alone necessary for the jury's *post-mortem* examination.

1290 The Court, after being advised by physicians, direct the jury as to the legitimacy of a posthumous child.

1345 The Sheriff is directed to summon the foremost London medical men to consider the severity of a recently inflicted wound.

1354 A charge of surgical malpraxis narrated in the City Records.

1450 Common witnesses are summoned to appear before the jury.

1506 Dispute as to the province of the Court or the surgeon to decide upon the severity of a wound.

Anatomical *post-mortem* examinations occur, though pathology is primitive. "Searchers."

1542 Thomas Vicary advises the Lord Mayor in a case of battery.

1562 Witnesses summoned *sub-pœna*.

1575 Ambrose Paré publishes typical "medico-legal reports."

1632 College of Physicians report in full on a corrosive poisoning case.

1665 Sir Thomas Browne affirmed in Court his belief in witches.

1699 Baron Hatsell objects to Dr. Crell quoting "Ambros Parey's" opinions.

1723 Mr. Justice Tracey enunciates "the wild beast" theory of responsibility in lunacy cases.

1767 *Slater* v. *Baker & Stapleton*—a case of surgical malpraxis; damages £500.

1781 John Hunter gives expert evidence in an alleged poisoning case: "I can give nothing definite."

1788 Samuel Farr's *Elements of Medical Jurisprudence.*

1795 Matthew Baillie exposes the fallacy of "Death from polyp of the heart."

1807 Chair of Medical Jurisprudence established in Edinburgh.

1823 Last "cross-road" burial of suicides in England.

1827 Orfila doubts detection of blood-stain with the microscope.

1830 The first Medical Coroner elected. "A medical Crowner's a queer sort of thing."

1831 Sir Thos. Watson lectures at King's College Hospital, and Swaine Taylor at Guy's.

1832 The Anatomy Act, after Burke and Hare scandals. "Burke Hare too!"

1836 Registration of "the cause of death" introduced.

Sir Dominic Corrigan's clause as to fact of death: "As I am informed" (1874).

1837 The Medical Witnesses Remuneration Act allows fees for medical evidence at inquests; inquests and autopsies increase, pathology advances.

1843 Swaine Taylor's *Manual of Medical Jurisprudence (Principles and Practice*, 1865*)*.

Rules as to the test of criminal responsibility of the insane (McNaughten's case).

1844 Rudolph Virchow's *Die Sections-Tecknik* commenced.

1845 Telegraph first used for arrest of a prisoner (Tawell).

1846 Anæsthetics introduced. "Gentlemen! Here is no humbug!"

1848 The first Public Health Act.

1851 Stas devises his process to detect poisoning by alkaloids (nicotine).

1857 Lord Chief Justice Cockburn discredits microscopical evidence.

1858 "Railway shock" appears.

The Medical Act registers medical practitioners.

1862 Hoppe-Seyler suggests medico-legal use of the spectroscope (Muller's case, 1864).

1863 Photography applied to surgery. (1871, criminals photographed).

1864 Listerism introduced.

1868 Crown Office (Scotland) memorandum for medico-legal examination of dead bodies (revised 1897).

1883 Bertillonage employed (France).

1879 The first Inebriates Act.

1886 The triple qualification necessary.

1887 Retford ptomaine poisoning.

1888 Witnesses emancipated from "kissing the Book."

1893 Phonograph heard in the Chancery Division.

Report on Death Certification.

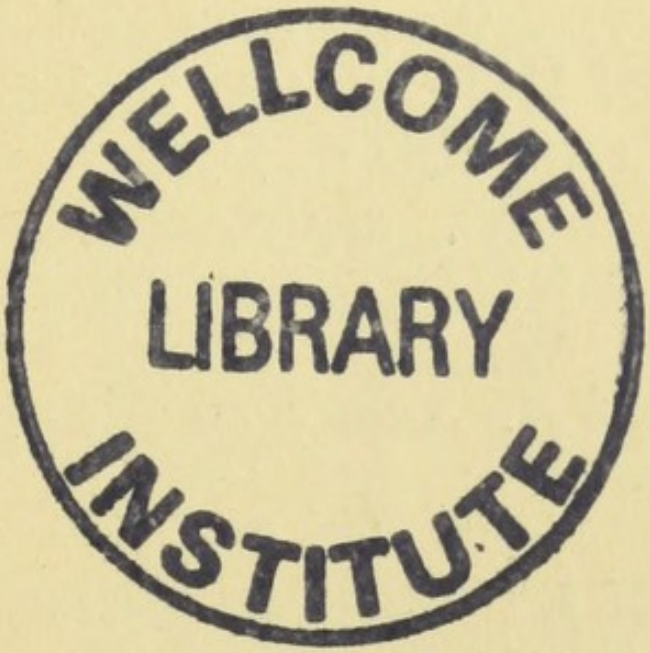
1896 Skiagram of ankle produced in an action for damages.

1897 Finger-print records recognized (India).

1897 Cinematograph used in Medicine.

1901 Medico-Legal Society founded.

1902 A "thumb-print" accepted at the Old Bailey.



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