

**The claims of forensic medicine : being the introductory lecture delivered in the University of London, on Monday, May 11, 1829. / By John Gordon Smith.**

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*THE CLAIMS OF FORENSIC MEDICINE:*

BEING

THE INTRODUCTORY LECTURE

DELIVERED IN

THE UNIVERSITY OF LONDON,

*On MONDAY, MAY 11, 1829.*

BY

JOHN GORDON SMITH, M.D. M.R.S.L.

PROFESSOR OF MEDICAL JURISPRUDENCE.

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*"Fiat justitia, ruat ———"*

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LONDON:

PRINTED FOR JOHN TAYLOR,

*Bookseller and Publisher to the University of London,*

30, UPPER GOWER STREET.

1829.

THE UNIVERSITY OF LONDON

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## ADVERTISEMENT.

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SOME even among my friends have expressed a doubt whether it would be quite safe for me to print the following discourse. *I have printed it*—at my own risk ; and will promote its diffusion by all proper means. If it should be found to contain passages not very agreeable, in certain quarters, I am satisfied that I have spoken “the truth, and nothing but the truth ;” and that I am honestly exerting myself to do “the state some service.”



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## INTRODUCTORY LECTURE.

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MY LORDS AND GENTLEMEN,

CERTAIN recent events, of great national interest, have drawn the eyes of the public upon myself, as having been deeply concerned in them; and I feel that the task I have undertaken, at the present hour, is neither an easy nor a pleasant one. I am resolved to discharge my duty, however, as you have a right to expect of me; and if there should be any among the audience to whom the sequel may give pain, I have not invited them to come here. At the same time I desire to assure them that I have avoided the quotation, not only of names, but even of times and places, any allusion to which might give unnecessary or unmerited uneasiness. But I have to deal, nay I *must* deal, with matters of public history; and the first duty of an historian is *impartiality*.

Having formerly entered, at considerable length, into the nature and objects of the study confided to my direction, I do not conceive it necessary to go over the ground again, upon the present occasion. I have repeatedly taken opportunities, when the public had the power of becoming acquainted with my views, of alluding to the *antiquity*, the *universality*, and the *importance* of MEDICAL JURISPRUDENCE: so that a very few remarks on these points are all that I shall think of troubling you now to listen to.

In the first place, as to its *antiquity*.—I am sufficiently tinctured with the spirit of the present times not to believe in the excellence of any thing merely because it is *old*,—con-



sidering that its *utility* is a better argument in its favour; nor do I wish to make it out (if I even could) that the writings of Hippocrates and Galen in this department of knowledge have been lost. I suspect that these sages knew as little of the matter as most of our modern luminaries, and that they would have cut as indifferent figures on a trial for committing *the crime of APOPLEXY*, as we have seen other great men do. Of the antiquity of medical aid to Jurisprudence, therefore, I shall excuse you from being told more than that we find there were Professors, bearing the same designation as I have the honour to bear, and books exhibiting the same titles as some of those I have had the temerity to publish, before the world heard of lectures, or knew of any other source of general instruction in sciences which are now considered, and justly so, the indispensable foundations of professional knowledge. In fine, on the score of the old age, and consequent imbecility of my department, I do not claim more than about 300 years. It may be said (though not a native of this country) to have been born in the time of King Henry VIII.; but I must add, that it is hardly yet out of its English cradle.

Secondly, as to its *universality*.—If we here take into consideration its applicability, I may say indeed that it is *every body's business*; and if we trace its progress through Christendom, we shall find every intelligent person concerned to know something of it, except the people of this country. There is not a medical school on the continent of Europe in which it is not ranked among the essential business of the student. I believe it is also distinguished in this manner in the United States of North America, whose public institutions, national character and habits, are formed upon European models. In the University of Edinburgh there has been a regius professorship for more than twenty years; and I have it in my power to say that it is to be included in the curriculum of study enjoined on all candidates for medical honours in that school;—an example which must, as a matter of course, be *followed* in this metropolis, though I cannot help saying it would be



more to its credit were the example here *to be set*. I have in my hand a printed catalogue of about 10,000 volumes which have been published in this department; and as the book belongs to the library of the University, you can verify the statement at your leisure.

I have said that Medical Jurisprudence is every body's business, which leads me to allude, in the third place, to its *importance*. What is it? What does it consist of? What are the duties which it imposes?—Brief answers to these queries will furnish all that it may be necessary to advance under the head of its *importance*, at the present moment.

1. What is it?—A collateral, but distinct application of the knowledge required for the treatment and cure of disease to the purposes of the due administration of justice and conservation of the public health. Now, justice is the concern of every member of a civilized community, either as its dispenser or receiver; and whenever the issue turns upon a question of anatomy, physiology, pathology, or chemistry, the practitioner of the healing art is obviously the proper guide to an accurate decision. When such a one is brought forward for this purpose, he is the representative of a most important as well as learned body, and owes it to his brethren neither to disgrace them nor himself. He is looked to with the greatest anxiety for correct statements as to the real nature and extent of professional knowledge; and such opinions he must deliver, or will be made to deliver, in simple and explicit terms. Judge and counsel, on these occasions, profess to be uninstructed, and juries are unquestionably so. Nor is it possible for the witnesses to prepare the minds of these for a scientific knowledge of the matter by the advantageous medium of a previous and elaborate course of instruction. The point must be come to at once, and made clear in very few words. Nothing, in the course of my attendance in these practical schools of medical evidence, has struck me more forcibly, or pleased me so much, as the rapidity and precision with which the gentlemen of the law arrive at the object wanted, and the utter separation which they create between the point



in view and the provisos and hypothetical appendages in which the medical practitioner is generally disposed to clothe it. They know well how to fix him to a *yea* or *nay*; and by a simple negative or affirmative he may ruin his reputation, or (I was going to have added) make his fortune; but truth compels me to declare that I do not yet know of an instance in which any of our cloth has risen into repute, by coming under the notice of the public in this manner, desirable as such opportunities ought to be, at least to the young practitioner, and candidate for public confidence.

Again—Justice is the business of every one who may have redress to seek, or be the subject of accusation on the score of wrongs inflicted; and it is peculiarly the concern of every one who inhabits a land, famous, over all its other privileges, for the inestimable blessing of *Trial by Jury*;—a land in which not only has every subject the right of being judged by his equals, by his neighbours, by men in the same circumstances with himself, but where he is liable to be called on to sit in judgment in his turn.

2. What does Medical Jurisprudence consist of?—We shall adopt the term now used, as a general one for an extensive, ill-understood, most curious, and almost *incredibly* useful application of nearly every thing else that is known; and I shall, rather for form's sake than for any purpose of instruction, observe, that it is strictly synonymous with the terms Political, State, and Public Medicine; as the science of medicine, in its ordinary limited sense, of relation to individual interests, is hereby extended to matters of general, statistical, or public importance.

Under this general title we find that two great branches or divisions are comprehended, which are commonly designated *Forensic Medicine* and *Medical Police*. The latter is made up of those subjects which belong to the business of legislating for the public health and safety; and with it, for the present, it is not my intention to engage. The other branch is of more urgent importance, and is, perhaps, less understood: to it, therefore, let me direct your attention.



It relates, as its title signifies, to the occasions on which medical men furnish assistance to the public courts, or in the Forum, as the Romans were in the habit of saying; (and we might with corresponding accuracy designate it the medicine of Westminster Hall). It involves every question connected with injury to the person,—many of life and death,—of property and of reputation. To these, in a short introductory lecture, it would be impossible to make distinct allusion; and I do not know that there is any other term conveying exactly the same meaning. The French have styled it *Médecine légale*, but we lose the meaning of the term by translating it into English. *Legal Medicine* will not convey the conventional signification of *La Médecine légale*; and the Medicine of Law would, though perhaps quite correct, sound strangely in English ears. All I profess, however, on the present occasion, is to undertake a course of instruction in FORENSIC MEDICINE, without affecting to be any thing of a lawyer, though in the course of my studies I have acquired some knowledge of the relationship that the law of England bears to the members of her medical profession, as well as of the use that medicine ought to furnish to law and justice. I have no fear of qualifying those who choose to place themselves under my tuition for giving professional testimony in courts of every description, with propriety, comfort, and respectability, if not even with personal *advantage*.

This naturally conducts us to the third inquiry; viz. What are the duties imposed by this application of medical knowledge?—that is to say, the duties imposed upon medical men. They are two, exceedingly simple in themselves, but, from the way in which they are blundered through, the terror and dismay of the medical world. The first is, to declare the state of professional knowledge; and the second, to acquire the knowledge itself. It is true that in thus advancing the proposition, I have reversed its natural order; for it is necessary, whatever some may conceive to the contrary, first *to learn*; there can be little teaching to the purpose, where this part of the business does not go before the other.



Now, in my estimation, there are few things so easy as to make a respectable appearance as a medical witness in a court of justice; but there are few things of less frequent occurrence. I hardly know how to deal with the fact, that practitioners of the highest repute often go wrong in that situation; and I am almost tempted to infer that a bad witness cannot be a good and safe practitioner. I should not like to have much reason for placing confidence in the bedroom skill of the man who broke down under a legal examination; but it is to be recollected that legal examinations are ordeals few of us like to encounter. Too frequently, however, has it happened that the witness has manifested rather a party-bias than a simple, plain, and straight-forward desire to display the naked truth. It is a pity that a professional man should ever go into a court with any leaning, whatever side he may be employed by; whether a witness for the prosecution or for the defence, he should deal with *opinions* as any other witness will be made to deal with *facts*, tell "the truth, the whole truth, and nothing but the truth." Obliquity even of wish, not to speak of purpose or attempt, is exceedingly dangerous; and I fear that a feeling of this nature has been frequently the cause of that failure of intelligence, that eclipse of the judgment, and that bewildering ascendancy, which have been too commonly remarked, and often severely commented upon.

But, as I have already said, I see nothing formidable in the performance of this duty. I have observed that the object in courts of justice is really to discover the truth of the matter under investigation, and that the parties with whom the issue rests will not venture upon a decision until they have discovered it. In those most important of all cases, where life is at stake, every desire is felt, and every facility is afforded, to know the real merits of the case:—mistakes may be rectified; and no quirk, quibble or technical advantage, is suffered to be made available *against the accused*. If, then, a medical man is, as he ought to be, at all times ready to offer accurate information, he should go forward without



fear ; and if his character be good, and his acquirements respectable, he will meet with no unpalatable treatment.

I have been sometimes grieved as well as surprised at the aspect of our profession upon such occasions. They have too often appeared as if conscious of participation in the odium of the crime, and even more alarmed than the person who is undergoing a trial for his life. In some instances this arises from an apprehension that the prisoner may lose that life upon what the witness may say. Well aware am I that the man, upon whose dictum so great a stake depends, has no ordinary cause for anxiety ; but he has only to avow what he knows to be true, or to admit the deficiency where he has *no* knowledge, in order to guard himself against being accessory even to the *chance* of condemning the innocent. Why should the judge be looked upon as an angry being, placed over us for the purpose of censuring or punishing those who commit no crime ? Our bench is occupied by the most upright, considerate, forbearing and humane characters in Christendom. In them I never could perceive any desire or inclination to molest, harass, or perplex a witness ; but, on the contrary, the most courteous and inviting demeanour has been always observed towards the party employed to furnish the information wanted. And as for the gentlemen of the bar, who are of the same rank in life with ourselves, I must really acquit them also of any wanton or unprovoked severity towards us. They have a duty to perform, one great object of which is to elicit truth ; but sometimes they are obliged to elicit it in a way different from that which suits the inclination of the party under examination. Yet, on capital trials, when cross-examinations necessarily assume an importance far beyond that of ordinary occasions, I have seen nothing terrific, and very little that was objectionable, in the manner even of a *prisoner's* counsel. Depend upon it, if we know how, and manifest the desire, to discharge our duty, there is nothing in reality to be afraid of. I have observed the greatest lenity shown to those who deserved none ; the truth obtained by the lawyer's dexterity, and the unworthy witness suffered to



go about his business without hearing even so much as an insinuation concerning his own shameful behaviour.

How medical evidence should, in my opinion, be given, will form a subject for private and exemplified instruction hereafter.

But it must be admitted, that the duty under consideration is attended with causes of dissatisfaction, in which I most cordially join. It is a severe tax upon the time of the practitioner, who, being subpoenaed to give his attendance, has the alternative of being secluded from his patients for several days perhaps, or of forfeiting £100. Even the remuneration allowed by law is not an equivalent in many instances; for a physician can claim no more than two guineas a-day, and this only in *civil* cases, or when brought forward at the instance of the prosecution. For attending as a witness in behalf of the prisoner, in a *criminal* case, although we are equally obliged to go, we are paid nothing. This being the state of such matters, no wonder that lawyers complain of our reluctance to assist them. It is, and must be, the fact: but I think I have devised a scheme by which the difficulty may be got over, and the wishes of all parties be met. Let us find members of our faculty who will make the business of the tribunals their prominent object, not only of study but of practice. To these the legal gentlemen would naturally prefer to have recourse; because, while their advice and opinions would be equally correct with those of other members, they would, without reluctance or difficulty, go forward to declare and substantiate them by *viva voce* testimony, given at once to the purpose. It is neither the number nor the celebrity of the witnesses that does or should carry conviction to the judiciary mind. If I (for instance) know a matter of a professional nature to be a fact, in whatever way I may have acquired that knowledge, yet, it being my own, and the opinion I have formed concerning it being given *as* my own and not as that of any other person, I give genuine and conclusive evidence, and my evidence is as good as that of any person of greater eminence. The scheme to which I have alluded has already met the approbation of



lawyers; and among ourselves I have had the satisfaction of hearing the opinion, that such a practice would be a great relief to the profession. I shall dismiss the subject at present, by avowing my own desire and intention to take all fair opportunities of standing between my profession and the public, by cultivating the business of what may be called *a medical advocate*, and endeavouring to prepare such of my pupils as may desire it for the performance of the same.

I shall pass over the advantages that would result did others as well as medical men interest themselves in this study. For my part, I do not see how any man can be fit for the office of *coroner*, without that acquaintance with the nature of medical evidence which a course of instruction in Forensic Medicine alone can afford.

When I appeared in this place about six months ago, on an occasion corresponding to the present, I had a difficulty to contend with that has since been, in great measure, removed. I could then speak of this science as one of whose utility we might have heard a great deal, but of which we had seen comparatively little. It is true that I had cases enough to refer to; but these were either among the events of other times or of other countries, in which few if any of *my* audience felt inclined, perhaps, to take a very deep interest. There could be no denying that such affairs as those of Donellan and Fenning had happened; but perhaps there was little idea that such things would happen again. Society was confessedly wiser—but were medical witnesses so? Had they profited by the examples of the celebrated John Hunter's evidence at Warwick? or the action of arsenic upon steel, as sworn to within these fifteen years at the Old Bailey? No: for ten years and upwards have medico-legal inquirers been writing and talking to them in vain. It is time, therefore, that compulsion should be resorted to for the extension of that knowledge which is confessedly inadequate to *judiciary* purposes. The only compulsion which ought to be thought necessary, is an exemplification of the manner in which the



right application of professional science may be made available;—and of this I now proceed to exhibit to you some specimens.

Two men, in a state of intoxication were left together in a room for several hours, without any witness to observe their conduct; and at the end of this period it was found that one of them was dead, and the other had disappeared. Medical men being called in,—after concluding in the first instance that the deceased had perished by *apoplexy*, formed a subsequent opinion as to violent interference, and murder by *suffocation*. In this opinion they imagined they were borne out by certain external appearances observed in the body. The body was afterwards opened for judiciary satisfaction; and all the appearances then discovered, described and promulgated by them, in a formal and official document, proved in the very clearest manner that the case was one of apoplexy, and nothing *else*. Still, however, the charge was persisted in, the party accused was committed to prison, and had to undergo a trial for his life, entirely upon the merits of this sort of testimony. In the short time that elapsed between the first examination and the final issue, very great dissatisfaction was expressed by the medical profession, and even formal discussions were established, in which the validity of these conclusions was completely overthrown; active exertions were also made to prepare a confutation of them, which was rendered the more necessary, as it had been asserted that these opinions were to be maintained on the subsequent trial, merely because they had been put forth, and could not be consistently retracted. Retracted, however, they most completely were, and voluntarily; and I think it my duty to say that witnesses were in court for the purpose of proving that one of the authors of the statement had expressed this intention of abiding by it, for the purpose assigned. The result was, that the prosecution was stopped, and the prisoner instantly acquitted, without being called upon for any defence. In this case I was, without any motive or advantage whatever, but a respect for truth and science, very deeply en-



gaged; and though I have no desire to speak well, and by no means think well of the culprit, I had the most satisfactory means possible of knowing him to be perfectly innocent of the crime of murder, or of any violent interference whatever. It is much to be lamented that men professing to be philosophers should have been guided in the discharge of an important duty by vulgar prejudice and popular clamour, and have drawn public attention to their own incapacity for the performance of this duty. However humble the party suspected may be, he has the same claim upon our candour and intelligence as another; and we are answerable for our conduct, under such circumstances, to the most important of all tribunals—*public opinion*.

The other case, which occurred about the same time, was still more interesting as an illustration for the present occasion, though public attention has not been so keenly fixed upon it. Its merits I shall recite as briefly as possible.

An unmarried female proved with child, and died under circumstances which gave occasion for a coroner's inquest; in the course of which, evidence was given by a person calling himself a surgeon, that she had been destroyed by attempts to procure abortion,—embracing therefore two very heinous crimes, of which one amounted to murder. For perpetrating this murder, a medical man and a female friend of the deceased were committed for trial. The surgeon aforesaid had visited the deceased previous to her death, and administered remedies (one of which was copious evacuation of blood; when the woman seemed, from his own account, to be *in articulo mortis*). He afterwards, in the presence of his shop-boy, opened the body; and having done so, drew up a formal report of the appearances, the statements in which satisfied the parties who held the inquest (which by the way was afterwards quashed as an illegal proceeding altogether), and the prisoners were committed on the coroner's warrant. In this report, and in the oral testimony given by its author, it was alleged that savine and rue had been administered to the deceased, and that '*a dreadful operation*'—



(these were the words)—had been attempted, in consequence whereof she died. This document had the advantage of being read in open court by the writer himself; and being present, I had the felicity of inspecting the original. Of its literary pretensions I shall say nothing; but such medical nonsense could only be paralleled by the other statement, upon which the merits of the case first mentioned hinged. The question of the *savine* and the *rue* was very speedily disposed of by the admission of this witness, that he had not been able to identify them; and we all know that if any effect is to be relied upon, they must be given in large quantities; while even then the primary effect will not be that of producing abortion. The affair was thus left to hang upon the '*dreadful operation.*' The performance of this was inferred in a most curious manner, which I hope I shall be able to make you all understand. Although the witness admitted that he had drawn his conclusions more from '*what he had heard than what he had seen*' on the occasion, his observations ought not to escape exposure.

They were recorded both negatively and positively; for he stated that 'he examined most particularly, and could not discover any catheter or instrument to draw off the water had been passed or previously introduced.' Here is an inference indeed—much such a one as would be made by a man, who, after looking 'most particularly' over London bridge, would say that he could not discover [that] '*any wherry or other boat had passed through the centre arch, three or four days before.*' But on one side of the womb there were indentations *as if made by a blunt instrument in the first instance*; and on the other there were '*five distinct punctures, made by a sharp instrument*'! Notwithstanding all this, however, there had been no ABORTION, the uterus having been found with its entire peculiar contents, as would be the case at the stage of pregnancy to which the unfortunate woman had advanced.

Now, let me appeal to every medical man here or elsewhere, whether if abortion be undertaken to be procured by



a person of scientific skill, through the means alleged, there is any risk of failure? Society is more indebted to our caution and integrity, than they are aware of. In this case, however, there was no trace of any such interference; and whether the woman died of inflammation excited by the administration of powerful drugs, by unskilful treatment, or other improper management, it is clear that no attack had been made upon the ovum. But this is not all, the uterus itself having been removed from the body and preserved in spirits, was produced in court, and submitted to the inspection of eminent medical men, who declared that the alleged wounds or punctures were merely the openings of natural ducts belonging to the organ, which presented exactly the appearances that would be found in any impregnated uterus at the same period of gestation.

I apprehend, Gentlemen, I have said enough to rouse even your *indignation*; and I will not affect to conceal that I felt no ordinary, and do still feel considerable exultation at these triumphant victories of skill and science over ignorance and presumption. The matter was the more satisfactory,—perhaps I may say even brilliant,—as the discomfited parties were reduced to the necessity of confuting themselves. I have little hesitation in saying, that had the original depositions in these cases been allowed to take their course in a way, in which it is to be feared there have been too many examples, three innocent persons would have been doomed to, and no doubt must have suffered, an ignominious death,—for which the errors of medical men would have been justly held responsible. The awful nature of the consequences it would not be for me to depict, if I could; but the first would have been the raising of the public voice about the errors, and the next, universal indignation to the end of time. For my own part, I have felt it my duty to lay very strong statements on these occurrences before His Majesty's Government, which have been received in a satisfactory manner, and of the results of which I have little doubt the public will in due time have the benefit. One of these persecuted and innocent



individuals has been here to express his thanks, and is now in this theatre ; *a living and a grateful man, instead of lying a dismembered corpse on the table of the anatomist*. But we require no thanks ; we want to do good, by extinguishing error, banishing prejudice and ignorance, and raising truth, knowledge, and common sense to their proper level.

Perhaps this may be the last opportunity I shall seek of *recommending* Forensic Medicine to public notice. Arguments, if now offered in vain, must give way to practical illustrations ; and these I have now displayed a very simple method of obtaining. It is my design to bring those who are styled the guardians of the public health before their country, in order that they may prove the worthlessness of Medico-legal study, by displaying how very much they themselves can speak to the purpose who neglect or despise it. If these parties continue insensible to the force of truth and the influence of necessity, I promise you that every member of certain *courts of examiners* shall stand an examination himself in a *court of justice*, before twelve months pass over. All this will be affected by very simple machinery ;—an interview with an attorney, a subpoena, and a few suggestions to counsel, will be perfectly sufficient. Let those who are placed in conspicuous situations, for the express purpose of directing the studies of young men to essential objects, attend to the duty of enlarging the limits of professional acquirements : let it be no longer optional but imperative, that the candidate for admission to practice shall be qualified for the discharge of his duties under the critical eye of the public. Why this absurd perseverance in a course of neglect, which distinguishes the medical schools of this country from those of all others by a glaring and remediable defect? Have *we* no tribunals? Are medical men in this country never required to go before them? or, when they do go, are they found to display an almost miraculous knowledge of their very peculiar business? Or, again, do they feel so easy and comfortable on these occasions, as to supersede all necessity for thinking



about what they are going to say? Is it to *me*, the only teacher at present in a state of activity, that they object? Do they consider my pretensions shallow, and my proposals vain? Do they understand either? Have they taken any pains to satisfy themselves that there is nothing in them? Have they read my books, and discovered the doctrines contained in them to be erroneous, or the facts adduced in support of these to be false? If they have *already* done this, and decided that I am unacquainted with and incapable of performing my duty; or if after a personal examination (which I am ready to submit to, if proposed in a proper manner) they should *come* to such a conclusion,—notwithstanding the opposite decision of the council of this University, consisting of a large body of noblemen, and gentlemen of the first rank and education in the kingdom,—still the advantages resulting from *the study itself* ought not to be sacrificed. No sooner will the *fiat* issue from the Royal College of Surgeons, and the Company of Apothecaries, than there will be teachers in every school. You are here offered, for a sum of money, very insignificant indeed—a few shillings—and upon the easy terms of an occasional hour's attendance,—what I may honestly say I have not been able to qualify myself to accept the situation in which it can be offered, under the expense of many hundred pounds, and the devoted labour of most of the best years of my life; but I would rather instruct you gratuitously, than be myself subjected to observe the lamentable exhibition which almost every medical witness makes in a court of justice.

I did hope that I had successfully combated an error which was for a long time a favourite one among medical teachers; but of which I have recently discovered that the remains exist.

It refers to the vain, fruitless, and almost presumptuous attempt to teach Forensic Medicine in a desultory and incidental manner, by distributing its divisions among the lectures given in other departments of medical education. I have no approbation to bestow upon such pretensions, for they



must prove worse than a failure. If the parts of this well connected science are disjointed in this manner, their relations must be lost sight of; and it has been well remarked, that there is no science which admits of a more natural method of arrangement. Who, for instance, among the teachers of other branches, is to go out of his proper path in order to study the nature and application of medical evidence—under which title alone a course of lectures might be given with great utility? It is enough for every teacher to mind his proper province, and devote himself to his professed business. We have had too much of that universal sort of professorship in London; and in my opinion (by no means a singular one), the injunction might with great propriety be given, ‘*Divide, et doce.*’—I have listened, with equal surprise and disgust, to the lessons of a great surgeon in this metropolis upon the treatment, and even the detection of poisons, and I have traced the despicable consequences of these lessons afterwards into courts of justice. Depend upon it, this is a distinct application of the medical sciences, mistakes about which are almost certain to take possession of the minds of those who neglect it, or who do not pay even considerable attention to it; and it is not because a man is successful as a physician or surgeon that he must be a Medical jurist.

Another suggestion I beg to advance while upon this subject. All that is necessary to be known cannot be acquired from books. They are excellent for recalling ideas and refreshing the memory; but Forensic Medicine requires numerous practical illustrations that books cannot exhibit. There are objects for every sense, as well as for the judgement, and a necessity for acquiring no small share of manual dexterity, as well as acuteness of observation and accuracy of inference.

I am now about to make a very startling assertion, and I certainly would not make it if I were not able *to prove it*—as my friends of the law would say.—I do not believe there is a medical man educated in England who can open a dead



body, certainly not one who could name the instruments required to perform this operation—for judiciary purposes; unless he may be found among my own pupils, or those of my friend Professor Christison of Edinburgh. Some time ago I offered to instruct certain medical officers how to do this with great advantage and convenience;—but what answer did I receive from their local chief? Why this—That the thing was impracticable according to my plans, and quite out of the question. A thing which I had done and caused others to do over and over again with the greatest success and satisfaction, dexterity and facility, this gentleman pronounced to be an *impossibility*, because *he* had never heard of it! Such an example I feel it my duty to quote as illustrative of ‘*the good old school*,’ a school which I fear never had to boast of a proper *master*, or if it had, much I fear me, he had not the art of instructing his scholars, as we intend scholars shall be instructed *here*. Our schoolmasters have by this time given some proofs that they have gone abroad without wandering from their proper provinces; and they do not pretend to that ineffable degree of wisdom which obliges its possessor to believe that there is nothing left for him to learn.

Another illustration I must attempt upon this yet litigated point. Show me the medical man; even the chemist, the botanist, or the physiologist, who will so pursue the detection of a poison in the human body, as to instruct a court how to come to an unimpeachable decision, on the merits of such a case of accusation. There never was a trial, arising out of a charge of this nature, in which there was not either a conflict of medical testimony, or an unsatisfactory result of some kind or other. Look to the case of Donellan. Upon the coroner’s inquest, some of the medical men deposed to the administration of arsenic; and afterwards, on the trial, endeavoured to prove that the poison had been laurel water, *alias* Prussic acid. Shall I give you, in half a dozen words, my view of this celebrated affair? Take it as follows: Donellan was guilty. He poisoned Sir Theodosius Boughton by



administering Prussic acid, but medical evidence was only contributory to the proof; the *lawyers* convicted him on the evidence of circumstances, and there was not a medical witness for the crown who had not been led into the channel, where he formed his opinion by the circumstances of the case. The renowned, and in some respects *justly* renowned, John Hunter, went down to give evidence, as to general facts, in behalf of the prisoner; whom he not only was unable to save, but returned from the occasion with an impaired opinion of his own pretensions. After this, let no man sneer at medical jurists: we may not be the most *learned* people in the profession, but we claim some credit for being entitled to a place among the sensible and *inquisitive* portion of it.

One more example, in the department of *poisons*, shall be sufficient. Let me make a short allusion to the case of Fenning. This was a young, rather attractive, and consequently, perhaps, somewhat petulant female, who was tried, condemned, and executed in 1815, for administering arsenic to a whole family with intent to poison them. I believe her to have been no more guilty of the crime laid to her charge, than I myself was, who, at the period of its alleged perpetration, was in a foreign country. She was convicted upon the evidence of somebody belonging to our profession, who swore that arsenic would blacken steel, if applied to it; and who did not say so at a stupid coroner's inquest, but went to the Old Bailey, and there left this precious sample of evidence upon record, as given by him on a trial for life! Unfortunately, in those days, the idea of a University of London was unimagined, and there was no medical jurist at hand to make him consider what he was saying. That arsenic will blacken steel is no more true than that it will whiten ebony; and this I have demonstrated over and over, exhibiting the very circumstances of this unfortunate case, to audiences of a thousand persons likely to sit upon juries, in order that such a thing might never happen again;—and *for* doing this what has been my reward?—*the persecution of the worthless part of my own profession.*



The last argument I shall adduce for the purpose of silencing this unphilosophical nonsense about patch-work and piece-meal substitutes, for the important duties of a Medico-legal chair, shall be, that no two individuals who have studied the subject differ in any one opinion or point of real importance. In what other department of medical science can this boast (if it be one) make good its pretensions? It is an old proverb that 'Doctors differ'—but medical jurists *do* not; and (what is more), cannot differ. Away then with the presumption of attempting to oppose the introduction and progress of a study which promises to do more for the true respectability of the profession than any thing they have hitherto imagined. Let us not hear another word of what this person can do for *his* pupils, or the other for his *own*. I stake every thing I value and hope for upon the accuracy of the assertion that its pretensions are yet unknown, though its importance begins to be acknowledged, and shall most assuredly be *felt*.

I cannot dismiss you without offering a few reflections on the peculiar subject of *medical evidence*. This is very imperfectly understood, even among lawyers. Though I have acknowledged myself to be an admirer of the tact these gentlemen almost uniformly display in eliciting the truth, upon common occasions and from the general run of witnesses, I have observed that they often fail in ascertaining the real state of a medical man's knowledge, or rather in exposing the real state of his defects. In some instances I am aware that they feel a deference towards the established character and *ex-forensic* eminence of the individual, and are disposed to rate his pretensions higher than they most assuredly would those of any other party upon a corresponding occasion. This is courteous, and upon the whole, just: but sometimes a great man goes into court, and makes but a small witness; he speaks perhaps with great address, but very little to the purpose; he throws himself upon the support of unintelligible terms, and if compelled to give an explanation, explains



them in part only, or gets off by declaring that explanation is altogether impossible. But it is not because a man is great in any department of medical science whatever, or because he is eminent in any branch of medical practice, that he can discharge his duty well in a court of justice.

There cannot possibly be a greater mistake; but I believe there is hardly one under which people concerned in these matters so universally labour. It has been the fashion to treat this matter with great indifference; for many practitioners have gone through life without having been subjected to those calls which public justice may at any time make upon any one among us; and others, who have been obliged to make their appearance under these circumstances, have been suffered to say almost what they pleased, and have gone away satisfied that they had done all that was required of them. As far as this metropolis is concerned, I think I may go the length of predicting that such will not be the case in future. Having established some connection among gentlemen of the *legal* profession, they will now be less in the habit, perhaps, of resorting to celebrated members of ours, when cases occur that turn upon medical opinion, in order to ascertain what is really the state of our knowledge on any particular point. This, whether from study, intercourse with medical acquaintances, observation, or personal experience, any intelligent member of it will be able to satisfy them concerning; and not only so, but to point out the individuals whom they ought to produce in court *to prove* this. Such things have been begun—and similar things we purpose to continue to do: nor will it signify, in the slightest degree, whether the medical witness be disposed to corroborate our opinions or not; for if we know what the fact is, we shall find it a very easy matter to make him admit it, if he also knows it, or to confess that he does not know it, or at any rate to deny it; in which last case we shall be prepared to give counter-evidence in a very effective manner.

But, that the whole body of the profession may not be



thrown into an unnecessary state of alarm on this subject, let me state what will be the just and equitable, as well as the prudent and advantageous, course to be taken. Such appeals should be made to teachers and examiners—to the medical officers of medical institutions—to those who profess to know most about this business, and being set (in whatever way) upon a hill, neither can nor ought to be hid. To these, therefore, we shall naturally have recourse; and as the examination of this highly respectable and most intelligent body will take up some months, others may, in the interval, prepare themselves to supply their places, by the time the lawyers shall refuse to have any thing more to do with them.

Gentlemen of the Law,—Suffer me to address a word to you before we part, hoping that we shall do so in perfect good-humour, although I am inclined to think I could give you a lesson, and in the article of *evidence* too. You possess, in great perfection, an art which I would fain do something to banish out of practice,—I mean the art of tormenting us of the medical schools. I have therefore to *beg of you* now, (as it will be your turn afterwards to ask questions of *me*), that you will consider a little the meaning of the term *experience*. Yes, *experience*. If you will look into the writings of our best moral philosophers (which the author of a work entitled *An Analysis of Medical Evidence* has done for you), you will find that there are two kinds of experience—‘personal’ and ‘derived;’ the former being the sort of experience which is ordinarily termed *original*, but the latter by far the more valuable and extensive. If we are to restrict the limits of experience to the mere casual occurrence of observation *in propriis personis*, every time that this receives the preference, we go back to the very foundation of knowledge, and throw down the whole superstructure which the labour and research of ages have been employed to rear. The knowledge of medical science, and even of medical facts, becomes our



own the moment we gain possession of it; and when we are in possession, we are in a state of perfect conviction as to the truth of what we have acquired: consequently, we give our own opinions, though we may entertain them in common with thousands of our predecessors and contemporaries. Let me entreat you, therefore, to attach less importance to individual experience, which we have had sufficient examples to show may be good for nothing, and to have a little more regard to *authority*. This is a word which commands you all; and if it be of such value, why do you claim the exclusive right of monopoly? We have a variety of sources by which it is our duty to obtain professional knowledge, of which naked experience is far from being the best. "It has been customary," among you, "to estimate that witness first who vaunts highest of his experience." Frequently also a witness is examined as to *the extent* of this qualification; the meaning of the word being restricted in all cases to what he has himself seen or accomplished. Dr. Campbell observes, that "what has been rightly perceived may be misremembered; what is rightly remembered may, through incapacity or through ill intention, be misreported; and what is rightly reported may be misunderstood. In any of these four ways, therefore, either by defect of memory, of elocution, or of veracity in the relater, or by misapprehension in the hearer, there is a chance that the truth received by the information of the senses may be misrepresented or mistaken." "And your man of mere experience is a man of information through the senses only. It is very possible, therefore, that he may be inferior as to knowledge and intelligence to the diligent student; for an accidental observer may be unqualified to make use of his opportunities, while the other may acquire much information, without going beyond the labours of others. The man of experience, moreover, has to labour as much, single-handed, as all the rest put together, ere he can equal them in pretensions; while the student again may have opportunities of experience to a minor extent, but will



make a vastly better use of a few than the uninformed can of many \*."

And now, my Lords and Gentlemen,—having occupied as much of your time as could with propriety be done upon such an occasion, permit me to return my dutiful and respectful thanks for your attention and encouragement; and to take leave by alluding to one circumstance which, in justice to myself, I think ought not to be passed over in silence. It has been said of me (both at home and abroad), that if there be any merit in making known the important science of Forensic Medicine to the English public, I may lay claim to it; and I should know very little indeed about it were I not fully aware, that when I took it up it could hardly be said to have an existence among us. I dare not boast of it as a discovery (in fact it has given me cause to boast of nothing but disappointment), but I do assert that I have made it *an English study*; and I promise, if duly supported, to advance it further towards perfection. I have not merely translated or compiled from foreign authors; I have gathered facts from every source,—from reading, correspondence, travelling, and observation; and having collected these, I found that the most useful lessons were to be derived from, and the most important doctrines founded upon them. With all due respect for, and taking all fair advantage of, the labours of others, it has been my object to assist the institutions of *my own country*. I am still willing to hope that I shall have much important work to perform ere I attain the celebrated age at which the progress of improvement has been almost proverbially said to stop; and if so, to furnish at least one example of an exception to a rule, to which there are numerous exceptions now present. However it may fare with myself, I think it does not require prophetic

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\* Analysis of Medical Evidence, by John Gordon Smith, M.D. page 122.



powers to perceive that this Institution (speaking of it now in the most comprehensive sense, and not restricting the view to any one department in particular) will shine with a splendour and advantage of which little has hitherto been known : and it is my fervent prayer that its light may continue to be mildly and steadily diffused, either till the night of eternity shall darken the world, or these beams of intelligence be absorbed in a brighter effulgence !

THE END.

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