ADDRESS IN FORENSIC MEDICINE,

DELIVERED AT

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BY

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FORENSIC MEDICINE FROM A SCOTCH POINT
OF VIEW.

My first duty is to thank you for having done me the honour of asking me to address you on the subject of Forensic Medicine. I should have been unwilling to accept this compliment if I had fancied that it was paid to me as an individual; but I recognise in it an expression of your good will to the university in which I have the honour to be a professor, and in the name of my Alma Mater I thank you cordially and sincerely. I only wish that she herself, and that department of our profession of which I have to speak to you, had not deprived me of a good deal of the time which I required for the due discharge of these duties; but an unusual number of candidates for degrees necessitated the bestowal of much of my time on examinations, and a succession of important medico-legal investigations occupying the hours I could spare from other work, concurred in engrossing my attention for some weeks. I am constrained to put in this special defence in extenuation of my poverty of performance—not for my own protection, but lest the University of Edinburgh should suffer in character from the shortcomings of him who is her representative on the present occasion.

I do not profess to have been troubled with much doubt as to the line which I should follow in addressing you. I have not thought of recounting to you the history of Forensic Medicine during the last year or two, because I am not aware of any startling discovery or revolution in opinion which marks an era in its progress. I never thought of occupying the time of busy practitioners of medicine with details as to processes of medico-legal investigation, in which the great majority of you would never think of engaging. It never occurred to me to occupy your attention with a narrative of actual cases in which I have been engaged, however curious may be the points which they present to us; for I feel that we are met here for better purposes than listening to histories, albeit I believe that, flavoured as they are with a slice of romance, they might at any rate be more captivating to your attention than anything I am about to say.

My idea is, that I can best fulfil the duty of addressing you on Forensic Medicine by ignoring individual instances and taking a look at the subject generally, especially in relation to the matter of preliminary inquiry into cases of a suspicious character which involve medical considerations. It is quite true that this means looking rather at the legal than the medical aspect of the subject; but the numerous letters which appeared last year in the Association's JOURNAL, and the fact of a conference, mainly composed of medical men, having been held by the Parliamentary Bills Committee of the Association, under the presidency of Mr. Ernest Hart, on the subject of coroners' inquests in November last, justify me, I think, in following this line on the present occasion. It will, I suspect, prove, that much of what I say will appear to you gentlemen of England to be heretical; but I believe you will not absolutely object to hear the views of one who has had some medico-legal experience in a country where there is no such person as a coroner, and no such body as a grand jury, but where there does exist in full activity a public prosecutor, who is almost an unknown functionary south of the Tweed.

Before saying anything further on the special subject of preliminary, or rather primary, investigations in cases of suspicion, let me shortly inquire in what estimation this department of State Medicine is held by the public and by the professions of medicine and law. As regards the appreciation of Forensic Medicine by the general public (I mean the laity outside the professions of law and medicine), I think, on the whole, it tends to exaggeration. Ignorant of the modern progress of science, they, on the *omne ignotum pro magifico* principle, are rather

astounded by the evidence given in the courts by experts. They of course know nothing of the progress which chemistry, physiology, and pathology have made in recent times, and they regard as something marvellous, what we, as well educated men, know to be only ordinary scientific knowledge, the delicate chemical results, the logically connected physiological phenomena, and the accurately noted pathological appearances which are brought forth, say in a trial for murder by poison, by well qualified experts. Be it so. It is an error on the safe side, if it could only reach the minds of those who have criminal proclivities. Unhappily, most of them are of the rude, utterly ignominious, class. But we have had our scientific murderers, our Palmers, Pritchards, Chantrelles, whose crimes have been satisfactorily brought home to them; and every conviction obtained under difficult circumstances is a fresh weapon in the hands of retributive justice, which she can wield as a terror to evil doers. We must not in a quackish spirit exaggerate, but we need not in any spirit of mock humility deery, the power of good medical evidence for the detection of crime; and we may with honest pride point to what she can do, and in numerous instances has done, in the way of vindicating the offended majesty of the laws of God and man.

I am not quite sure what answer I should give to the question, How does the profession of the law regard Forensic Medicine? I think that on the whole your practising lawyer looks upon it as a rather sharp weapon, but he has some dread of it as a double-edged one; or rather he often regards it as a kind of boomerang, which may make a deadly hit if skilfully thrown, but which may occasionally turn back in an unexpected way and smite the arm which projected it. Do not accuse me of Scotch pride, if I say that I believe Forensic Medicine is more properly appreciated among Scotch than among English lawyers. I think I have grounds for this; it is, at all events, more studied by them. No man is called to the Scotch bar who has not attended a course of lectures on Medical Jurisprudence. I am not aware that any similar provision exists in your Inns of Court. This is not what should be. Forensic Medicine is a weapon which every lawyer has occasion to employ; and, in order to his successfully scoring a hit, he ought to know its mechanism, the elevation he ought to give to it, and the allowance he ought to make for the wind of difficulty and uncertainty which more or less always blows across his range.

I have often seen in the records of both English and Scotch courts how the want of some knowledge of this nature has crippled the hands of a barrister. Nay, with all reverence be it said, how it has led to manifest nonsense being uttered from the Bench by the mouths of those from whom better things might have been expected; and I would rather wish that English as well as Scotch lawyers (if there be no recent regulation to the effect, of which I am unaware) were obliged to make Forensic Medicine part of their professional study. I should be doing violence to my own sense of justice if I did not take this opportunity of saying that the law students who attend my lectures are, as a class, distinguished by their earnestness and zeal in acquiring knowledge, and if I did not record the satisfaction which I have often felt in our criminal courts in finding a young barrister employing, in cross-examination of myself, medico-legal knowledge which I had the privilege of imparting to him.

What shall I say as to the appreciation of Forensic Medicine by our own profession? I fear, if I am to be candid, I must say it sometimes has rather the cold shoulder turned to it. I fear that many of our students think it a matter of little or no importance, and many teachers do nothing to disabuse them on this point. You will, of course, absolve me, who am a teacher of Forensic Medicine, from the preposterous idea of holding that it need be placed upon the same platform, in regard to importance, as medicine, surgery, and obstetrics. I have seen and heard too much of forensic work not to know how thoroughly an advocate may ruin his case by pleading it too high. I desire to avoid this. I do not ask that it should be a leading study; I only desire that it should not be neglected. I am, of course, aware of the argument that is often used, that Forensic Medicine is not a special science, but only that which is known to every man who is a well-informed and duly educated medical practitioner. I demur to this as a doctrine which ought to influence medical education; it is unsafe. Medical questions assume a very different aspect, and reflect very different hues, when viewed in the glare of a court of justice, from what they do in the mild light of the hospital or the sick-room. The function of the teacher of Forensic Medicine is to accustom the student's eye to adapt itself to this peculiar optical medium; it is to teach him to regard medical matters, with which as a practitioner he may be familiar, in the peculiar light under which they may be viewed in a court of justice. It is quite true, he cannot be a good witness unless he is a well-educated practitioner; but he may be a successful practitioner

and yet find himself a very poor witness at a trial. I have no sympathy with, and still less would I have confidence in, a man who, not having given due attention to Forensic Medicine as a study, can glibly talk of his being able, on the score of his success in practice, to step jauntily into the box and show bench, bar, and jury that he knows all about it and can set them right. He is exactly the man who, riding on the bicycle of professional self-esteem, is apt to get an ugly fall—all the more disastrous that it occurs *coram publico*. Let me advise any young member of the profession who thinks he will make a good witness because he promises to be a good practitioner, to take warning from an old hand. I will cite no very recent, still less living, instances; but let such an one, if he have time and opportunity, look up the record (he will find it in Sir James Stephen's *General View of the Criminal Law of England*) of the well-known trial of Donnellan for poisoning Sir Theodosius Boughton, and let him see how poor an appearance, to use no stronger phrase, was made in the witness-box by him who bore the *clarum et venerabile nomen* of John Hunter.

I make these remarks, not to magnify mine office as a teacher of Forensic Medicine, but to warn entrants to our profession of a possible danger lying ahead of them. I am afraid that I must say that the want of due appreciation of Forensic Medicine is not confined to students, but that there are loose ideas afloat on the subject among those who regulate their studies. I cite, as an example of this, the amended scheme for the Examining Board for England, as accepted by the conference of the representatives of all the authorities of England, which bears the date of May 18th, 1877, and the signature of so distinguished a man as Sir James Paget. I find there, under Regulation III, "That examiners be appointed to conduct examinations in the following subjects: 1. Anatomy; 2. Physiology; 3. Chemistry; 4. Materia Medica; 5. Medical Botany; 6. Pharmacy; 7. Medicine; 8. Surgery; 9. Midwifery; 10. Forensic Medicine," but with this note in italics: "Questions in Forensic Medicine are to be included among those asked by the examiners on Chemistry, Medicine, Surgery, Midwifery." About the necessity of there being specific examiners on most of these subjects there can be no dispute; but it strikes me as curious that, whilst it is proposed to have a specific examination on Medical Botany (whatever that may be, as distinct from the knowledge of the vegetable materia medica and scientific botany), Forensic Medicine is left to be distributed among the examiners in Chemistry, Medicine, Surgery, and Midwifery. I should have thought that two old proverbs, both of them musty but practical, might have suggested themselves to the framers of this clause. One is, that what is everybody's business is nobody's business; and that these various examiners, having their own subjects to attend to, are not likely to give much attention to Forensic Medicine. The other proverb relates to the danger of falling between two stools; but here we have no less than four of these articles of furniture on which Forensic Medicine is expected to poise itself, and I need hardly say that here there is a double chance of a tumble, with increased probabilities of permanent fundamental injury. Depend upon it, candidates for medical honours will not think much of a department of knowledge on which they are not to be asked questions except in a vaguely incidental manner by those who are engaged in examining them on other and, as I proclaim them to be, more directly important subjects. Now, it is true that what I have quoted is not part of the regulations for candidates for an university degree, but is only part of the proposed scheme for examining those who are to obtain the minimum qualification entitling them to enter the profession—in short, of those who may be expected to be the general practitioners of the land; and it may be said that it is sufficient for its purpose. I cannot assent to any such doctrine. It presents an educational phenomenon for which I have been somewhat puzzled to account; but I think I have found a solution thereof. It appears to me that the framers of this regulation, in considering the subject of Forensic Medicine, had suddenly found themselves in close proximity to the law; that, fired with a spirit of surgical enthusiasm, they had made an exploratory incision into the *Corpus Juris*, and from its "awful belly," to use an expression of Thomas Carlyle, had extracted that well-known nodule of the wisdom of the civil law, *De minimis non curat prator*, and had translated this maxim thus: "The courts will not care much for the evidence of our minimists." And the courts would be right, if this be the way in which Forensic Medicine is to be set before the eyes of those who are working their way into the profession, provided the courts could dispense with the evidence of all but those holding the highest qualifications; but, unfortunately, in the majority of instances, it is upon the evidence of the general practitioner, not on that of the special expert, that the tribunals must depend for the primary information which is essential for their guidance; and, if the ordinary practitioner have not had due inducement to regard medical questions in a forensic light, he will be apt to miss important

points of observation, or to make mistakes which may lead to an actual miscarriage of justice. Everyone who has, as an expert, been consulted in important medico-legal cases, must know how often he is in doubt what opinion to give, because the facts on which he has to found his conclusions have been stated in a loose and unintelligible style. I know it is said that only a limited number of persons engaged in medico-legal practice, and that it is unnecessary to demand, by the test of examination, a special knowledge of it from everyone who enters the profession. I deny this altogether.

What is Forensic Medicine? I take the definition from Mr. Chitty, who says it is "the evidence and opinions necessary to be delivered in courts of justice, relative to criminal and other matters to be there determined." Is there any practising member of the profession who may not be any day called upon to narrate facts, and state opinions, in reference to a case with which he may one way or other have been connected? Is it not well for him to have had his attention directed to the aspect which any given case may present, when viewed in relation to the proceedings in a court? The fact is, that Forensic Medicine is the only branch of his profession which a man may be obliged to practise *volens volens*. It is essential, if I am a candidate for a diploma, that I should be tested as to my knowledge of medicine, surgery, and midwifery, before I am let loose on a confiding public as a practitioner; but, once my diploma in my hand, I may now choose to abjure any one of these departments of medicine. You cannot compel me to amputate limbs, if I choose to restrict myself to medicine. You cannot make me take charge of a case of pneumonia or typhoid fever, if my tastes are in the way of surgery. You quite properly examine me in midwifery, but you cannot compel me to sit down at the bedside of a groaning woman and support her perineum. But if I have, as a physician, a surgeon, or obstetrician, become connected with a case presenting some element of suspicion, a magistrate, or coroner, or procurator-fiscal may summon me, under penalties, to give evidence in a court; and in these circumstances I am practising Forensic Medicine. Is it not better, therefore, that I should be encouraged to study it in the knowledge that I shall be specially examined on it—not induced to pay little attention to it by telling me I may be incidentally tested by those who are examining me on the more important subjects which are to be the constant objects of my professional attention? Will it not, in such circumstances, occur to me, as a candidate, that the examiner in medicine is little likely to put aside scarlatina and small-pox, in order to have time to ask me the diagnosis between idiopathic tetanus and strychnia-poisoning; the surgical examiner, not likely to turn aside from inquiring as to my knowledge of fractures, in order to see whether I know how the direction of a wound may be indicative of suicide, homicide, or accident; or the obstetric examiner, to stop in his inquiry as to my acquaintance with placenta prævia and breech-presentations, to see if I have any idea as to the medical evidence of rape, which in truth lies far away from the dark and mysterious regions which are his special province? I sincerely hope that the English authorities will so far reamend this scheme for the examining board as to place Forensic Medicine in, at least, as good a position as medical botany; and, should a joint board be established in Scotland, I shall be somewhat astonished if the department of knowledge on whose behalf I argue does not find itself in the position of an independent subject of examination, instead of being left to the attention, or it may be the neglect, of those examiners who have other and, as I acknowledge, more important matters in their hands.

It behoves me, however, to remember that my ostensible object in addressing you at this time is to look at the preliminary proceedings in the investigation of cases of suspicion, and to set before you briefly the impression made on my mind by the consideration of the methods followed in England and Scotland respectively. I need not say that the first and most characteristic difference between the practice of the two countries is the existence in Scotland of a public prosecutor, and the absence of this in England. This is not merely a difference in the method of setting the criminal law in motion, still less is it a mere distinction in name; it is a radical difference in following the great fundamental principle which, so far as I know (except in England), guides the criminal procedure of every European country, as it also does that of the United States of America: viz., that it is the duty of the State to undertake the prosecution of offences. The object of prosecuting crime is not to avenge or indemnify the party injured, but to maintain public order, or, as our indictments say, "to deter others from committing the like crimes in all time coming." And surely the maintenance of public order is emphatically the State's duty. The discussion of abstract principles, however, we may leave to philosophers, and look for a moment at the more practical question: Does the existence of a public prosecutor act beneficially or not as regards the inves-

tigation and the detection of crime? I dare say few of you have taken the trouble to wade through the evidence which was given by a Select Committee of the House of Commons on this subject, in 1855, and reported to the House in the following year. It certainly presented some strong statements in condemnation of the then existing practice of the English criminal courts. A few examples may be cited. Lord Brougham stated to the Committee, that "nothing could be more ineffectual than the provision which the law and practice under it now make for the prosecution of offences"; and he concurred in the recorded opinion of Lord Denman, that "the procedure for the purpose of preliminary inquiry is open to great objection". Lord Campbell stated that "the criminal law is often most shamefully perverted to serve private purposes, and often perverted to very guilty purposes". The then Attorney-General, now Lord Chief Justice Cockburn, stated that "cases are often brought to trial which, from being imperfectly got up, break down, and thus cause the acquittal of guilty parties. Many cases are likewise brought into Court where, on account of the trivial nature of the offences imputed, or the deficiency of the proof adduced, prosecutions are undesirable". I could cite many other pieces of evidence of like import, but the authority of those I have quoted makes them sufficient for the present purpose. I dare say, to the public generally, and perhaps to many of our legislators, this Blue-book is an unknown or forgotten document, and that it is chiefly inspected by curious spiders, which spin their webs about it in the dark corners of public libraries.

The Committee's labours did not, as you know, lead to the legislative recognition of the principle that prosecution of crimes should be undertaken by the state. They were unanimous in thinking that "the state of things referred to in the foregoing evidence is greatly defective, and urgently requires amendment"; and they propounded a scheme, into the details of which I need not go, by which they said they were of opinion that an efficient system of public prosecution may be established; and they added: "We recommend it to the consideration of the House as a means for placing the administration of criminal justice on a footing more consistent than the present with the necessities of the existing state of society and the requirements of an enlightened jurisprudence." It would be wrong in anyone who is not a lawyer to say that the large labours of this Committee have produced no fruit directly or indirectly. In the Bill brought into the House of Commons this year by the Attorney-General, which embodies Sir James Stephen's codification of the criminal law, there are improved provisions for dealing with some of the evils which attach themselves to the system of criminal prosecution by private parties, such as agreements not to prosecute and the compounding of offences; but there is no attempt to go to the root of the matter by the creation of a public prosecutor, although no further back than 1875 the Queen's Speech distinctly promised the introduction of a Bill into Parliament for this purpose. It appears from what I can make out that the chief objections to doing this are these.

First, the attorneys of England are opposed to it, as militating against their interests. No doubt, this is a serious practical difficulty; for I fancy that, as an "interest", as the phrase goes, the attorneys of England constitute a body of great influential power exceeded, perhaps, by none, unless it be the publicans. It is not, of course, for me to offer any advice to attorneys, who are certainly quite capable of looking after themselves as well as their clients; but I see no reason why it should not be as good an object of ambition to an English attorney to be selected as local agent for the public interest in criminal matters as it is to a provincial legal practitioner in Scotland to be made a Procurator-fiscal. Of course, the rest must be disappointed, but they may usefully exercise their talents in conducting defences; and, though this may not be the most lucrative of occupations, I should doubt if it be greatly inferior in this respect to the work of conducting average prosecutions at the instance of private parties, even with the advantage of having security that at least some of the expenses will be repaid from the public funds.

The second objection which I have seen urged, which was prominently brought before the select committee by Lord Campbell, is that the existence of a public prosecutor might be an interference with the independence of the Bar, "because, if this patronage were vested in the Crown, no one could hold a brief in a criminal court, except by favour of the Attorney-General, or any person who had this patronage in his possession". This is also insisted on by Sir James Stephen upon somewhat different objections, which are not experienced in Scotland. Surely, a young barrister may, with perfect conservation of his independence, aspire to being selected as Crown counsel from his showing, say, by an ably pleaded defence, that he is well versed in criminal law. I should not dare to insult the English Bar by supposing it would lose its independence under any system; and he would be a bold man who would step into the Parliament House, the Palais de Justice, or the

Four Courts, and tell the Bars of Scotland, France, and Ireland that they have not had independence during the period (in the case of the former two extending to centuries) in which the office of public prosecutor has existed among them.

The other objection which has been urged against the establishment of a public prosecutor in England is the expense. Every one must be ready to admit that what may be worked without undue outlay in a small country like Scotland may involve financial considerations in England which render it unadvisable. When, however, I consider that prosecutions by individuals "bound over" are, to a certain extent, paid for by the state; when I consider that, in a regularly organised system, economy can always be more or less rigidly enforced, I fancy this question of expense may possibly be found to be much more serious in the apprehension than in the reality.

But, even if this idea were utterly wrong, if the expense of criminal prosecutions were to be greater than the broadest estimates calculate, let us have speedy and effectual action for the repression of crime, whatever we pay for it. The fact is, that this grumbling as to expense is at the bottom of most of the difficulties we have in the matter. The prompt and secure administration of justice is an expensive article, and, if we will have it, it must be paid for. Let us, as a professedly Christian nation, economise in some of our other departments of expenditure to do what is right in this. I wish that those laborious noble and right hon. gentlemen who superintend our military expenditure, for instance, could see their way to lessening the expense without impairing the efficiency of our armaments, and enable us to save something from the apparatus of war to expend upon the apparatus of justice. I am told that every shot fired from a 38-ton gun costs at least £12. I do not ask for twelve guineas for a *post mortem* examination; but a shot saved now and then would, at the rate of two guineas each for two medical examiners, pay for three *post mortems*, and, to my mind, the money would be well expended. Do not mistake me and think that I am here indulging in a sneer at "bloated armaments". I annex most sternly the condition "without impairing their efficiency" to any economies to be practised regarding our navy and army; but let us beware of being proud of the money we spend in making Britain, as she is, the foremost power in the world, whilst we are unwilling to spend money in making her an example to other nations of a prompt and sure administratrix of justice.

Of many of the evils mentioned as adhering to the system of prosecution by private parties it does not become me to speak, because they are purely legal evils; but there is one which was very broadly stated by Lord Chief Justice Cockburn, then Attorney-General, which more strictly concerns us. I beg to remind you of his lordship's words formerly quoted. "Cases are often brought to trial which, from being imperfectly got up, break down, and thus cause the acquittal of guilty parties." No one need be surprised at this. The attorney acting for a private party, with only a limited guarantee for the repayment of his costs, will, according to the prudential proverb, not put his hand further out than that he can draw it back with safety, and will not lead evidence that will be expensive and which may entail a loss upon him. Medical evidence is exactly of the expensive kind, if fairly paid for (which it generally is not); and this outlay he will naturally shirk from incurring, if he possibly can. The public prosecutor, who certainly ought always to be under strict and searching audit, is not under any such considerations, and will take pains to have good scientific evidence, although it may entail some expense on the nation. His official character, nay, his retention of his appointment, may be at stake if he do not get up his case thoroughly, and the auditing authorities at head-quarters (at least such is our experience in Scotland) will be ready to pass his accounts when they see that he did what was needful to make good his case, and when they know that he, paid as he is with us by fixed salary, can have no object to serve in leading expensive evidence, excepting a desire to do his duty in vindicating the offended majesty of the law. Does this of which I now complain—the imperfect getting up of cases involving scientific evidence—exist now or not? You who, either from your personal observation or from local newspaper reports, are conversant with the details of criminal cases occurring in your neighbourhoods, can answer this question better than I can; but this I can say, that, far as I am from the seats of English assizes, I every now and then see cases which prove to me that, in respect of calling medical evidence, criminal cases are most imperfectly conducted. I will not attempt to cite a number of instances; I allude only to one, and into the particulars of it I shall not go, because I have already inflicted on the members of the Association my ideas thereon in the shape of two columns of the JOURNAL regarding it. Some of you may remember it. It was a case where a man was accused at the Cornwall assizes of attempting to administer—for what immoral purpose you can imagine—cantharides to a young

girl. What was the medical testimony led in this case, which involved the physiological action of a notoriously noxious drug? It was that of a druggist, and his scientific evidence consisted in quoting, disjoined from its context, a passage from Taylor *On Poisons*. The result was an acquittal and a grievous miscarriage of justice, and all because the attorney who got up the case did not call any one average practitioner, for it required no learned expert, to prove that a grain and a half of cantharides might "injure, grieve, or annoy" the person who swallowed it. In last week's *BRITISH MEDICAL JOURNAL*, I see a case where an indictment for an attempt to procure abortion failed under a ruling of Lord Justice Thesiger, against which I take no exception, that, as the pregnant woman who took the drug was herself a *particeps criminis*, and her testimony was unsupported by other evidence, he could do nothing else than order an acquittal. It is entirely unintelligible to me that, under proper investigation, some idea should not have been got as to what was the drug administered (perhaps this is known; it is not stated in the *JOURNAL*); and that a medical witness should not have been got to speak as to what is known as to the said drug being one likely to be employed under the idea that it would procure abortion. As it was, there was forthcoming no such corroboration, which was all that was wanted; and thus the midwife, who is apparently one of those wretches who live by this abominable traffic in feticide, escaped conviction. It may be, for aught I know, that there was no possibility of knowing what the drug was, and of getting its supposed action spoken to by a medical man; but, if this be true, the case ought never to have been brought to trial at all. A public prosecutor, in such a state of matters, if truly conscious of what is best for the ends of justice, would have entered a *nolle prosequi*, knowing that a form of trial without a shadow of good evidence to support the prosecution, is only an encouragement, instead of a deterrent, to evil-doers. Gentlemen, let me urge upon you, as members of the profession most frequently called upon to give scientific evidence, to do what you can in your several spheres in urging upon our legislators to give to you in England what every other European country and America have the advantage of possessing—a functionary to carry out the principle that was announced by the Right Hon. Joseph Napier before the Committee in 1855: that "the executive government is properly, I would say primarily, charged with the security of society; that the security of life and property belongs peculiarly to the executive government; and that all prosecutions ought to be conducted by responsible officers".

The other great distinction between the initial proceedings for the detection of crime in England and Scotland consists in the existence in England of the Coroner's Court, which among us is utterly unknown. It is upon the coroner that have been concentrated most of the discussions among medical men as to criminal proceedings; and all of you who read the medical journals are painfully aware of how many editorial articles, letters with and without the writers' names, and conferences in Social Science Congresses, have been showered upon the head of this functionary. I have read a good number of these, including the discussion at the Conference held under the auspices of this Association in November last, and I must honestly confess I have not been able to shake out of myself the feeling that, as it now exists, the Coroner's Court is an anachronism and an anomaly. It is an anachronism because, though it may have been well suited for the time of the Plantagenets, in which it first took shape, it is unsuited to the requirements of the present day. As originally constituted, its main dependence was upon the fact that the jury was, not merely theoretically but practically, composed of the neighbours of the dead man, whose personal knowledge of him was expected to supply some of that information regarding the probable cause of his death, which medico-legal science, then not in existence, can now supply with some degree of certainty. It is an anomaly, both as regards the mode of election of him who presides over it, the want of security for his possessing the kind of knowledge which is often required, and the limited and circumscribed area over which his jurisdiction extends. I shall not discuss at length the mode of election. The idea of appointing a man to an office essentially judicial by the votes of independent freeholders of the county, or any such kind of constituency, appears to me to be indefensible. I can easily understand that gentlemen who have received such appointments will not readily adopt this opinion, and give a slap on the face to those to whom they have owed their elevation; but I cannot conceive anyone patting the freeholders on the back and saying, "You are the people to elect a man to preside over a court of any kind". The election, like that of other judges, should rest with a responsible minister of the Crown. The coronership as it now exists is an anomaly, because there is no security for the person appointed possessing the necessary qualifications for the office. Say what you

like, it is essentially judicial. It has to deal with questions pertaining to one of the most difficult branches of the law—the law of evidence; and I am not persuaded by statements I have seen confidently made, that anyone—for instance, a medical man—may very easily and speedily acquire all the knowledge of the law of evidence which a coroner requires. I can as easily believe, that a clever barrister may easily and speedily acquire an adequate knowledge of the laws and pathology of sudden and violent deaths. A medical man who may have to give evidence in a court of law will, if he be properly instructed, gather from his teacher of Forensic Medicine some hints as to the law of evidence which shall keep him from the mistake which has been committed, of putting into his reports, or attempting to bring out in his *parole* testimony, what might be held by the judge to be inadmissible as evidence. A lawyer if, as I hold should be the case, he be properly educated, ought to learn enough of Medical Jurisprudence to prevent him from misunderstanding what is the object or meaning of a medical man's testimony; but neither of them should suppose that, thereby, he can take upon himself the function of the other. The lawyer on the bench and the doctor in the witness-box—there you have, in my view, the right men in the right places.

You will see, from these remarks, that I am no supporter of the view that coroners should be selected from the medical profession. You will not, of course, suppose from this that I mean to hint that a medical man must necessarily make a bad coroner. There are many estimable and most efficient members of our profession who have held or do hold the office of coroner. To my mind, if they have been successful it has not been because of, but in spite of, their being medical men. Nor will you, I trust, accuse me of being disloyal to our noble profession; it is out of loyalty to her I make these remarks. In every instance of those inquiries which the coroner makes, there ought to be, at the earliest of such proceedings, a medical man in the case; but I do not want to see the medical man climbing into the coroner's seat, because I wish him to take his place on a higher platform. I wish him to be, not the coroner, but the coroner's instructor, his "guide, philosopher, and friend"; and this, to my mind, is the truest loyalty to our profession.

I say nothing as to the strange anomalies which adhere to the power and to the effect of the proceedings in the coroner's court, but content myself on this point with citing what has been said by Mr. Herschell, Q.C., M.P.

"But notwithstanding that proceedings are pending in the coroner's court, or even that an inculpating verdict had been found there, the accused person is none the less taken before the magistrate that the facts may be inquired into, and the case dealt with in the ordinary way. There an entirely independent investigation takes place, resulting either in a remand for trial or the discharge of the accused person. If he be discharged as being entirely free from blame—which not unfrequently happens where a coroner's jury have found a verdict of manslaughter—he must all the same retain the prisoner until the next assizes, or put him under bail to appear then and take his trial, although it is, practically speaking, a certainty that in such circumstances he never will be tried. If the magistrate commit and the grand jury find a true bill, it is on this indictment he is tried, and if acquitted no evidence is offered on the coroner's inquisition. If, though the magistrate commit, the grand jury should find no bill, it has become the regular routine for the prosecution to offer no evidence on the coroner's inquisition, and in effect to accept the counter-determination of the grand jury as overruling it. It will thus be seen that though in theory, and no doubt in ancient times in practice, a trial of the accused resulted, as a matter of course, from the verdict of the coroner's jury, this is no longer the case. It follows now upon quite independent proceedings pursuing entirely the same course as criminal proceedings do in cases not coming within the cognisance of the coroner's court. Surely you have here both anomaly and practical mischief. You have two separate tribunals for the purpose of determining whether a man is to be put on his trial, fulfilling their functions at the same time, but quite independently of one another, and arriving, it may be, at conflicting conclusions."

But I have said also that, as it at present stands, the coroner's court is an anomaly as regards the limited and circumscribed area over which his jurisdiction extends. I mean, of course, medico-legal, not territorial, area. Why should there be a tribunal whose function is limited to the investigation of cases where there has been a death, and which can take no cognisance of cases where carelessness as culpable, or violence as brutal, may be brought to light, as in any which involves the question of manslaughter or murder? No doubt cases involving a death are of the gravest character, because they may end in a capital punishment; and on the theory that the coroner's is a higher and more scientific court, the referring of the gravest cases to it is intelligible. But in this

view of it, why is the magistrate to deal with the same case, nay, in certain instances to override the decision of the coroner and his jury? One or other of these proceedings is superfluous, as Mr. Herschell and others have told us. If it be the theory that cases involving a death are more difficult of accurate solution than those that do not, and that they therefore require the intervention of the coroner in addition to the magistrate, I venture to dispute the proposition. We need the same kind of evidence and the same correctness of observation, to determine whether the injuries on a living person were due to an accident on his part, or an assault by another, as we require to determine whether or not a certain wound caused death. We need the same logical analysis of symptoms, and it may be the same delicate chemical research, to determine that there has been an unsuccessful attempt to poison, that we require to put in force when the result has been fatal. Nay, in many instances where the injured party is alive, you have an element of difficulty added which does not exist where the inquiry refers to death. A dead body tells no tales, except those which it whispers to the quick ear of the scientific expert, by him to be reported in the proper quarter. A living body has a living tongue in its mouth, and that tongue may be a lying one, ready either from vindictive feeling to have recourse to the *suggestio falsi*, or from fear of consequences to adopt the *suppressio veri*, and it requires certainly no less, rather it calls for more, acuteness and discernment on the part of the authority who investigates, or the medical witness who testifies, to follow the scent of the truth when there may have been a string of mendacious red herrings drawn across it.

You see, therefore, I am for extending the jurisdiction of the coroner, not limiting it. But if you extend it to all sorts of personal injury, fatal or non-fatal, and thus give him the office and power of the stipendiary magistrate, why stop there, and why not extend it to other offences which involve no medical considerations? And what is this but bringing us back to where we were some time ago? Why not make what you now call the coroner local public prosecutor? You may retain the time-honoured name of coroner or not. It has at all events an intelligible etymology, and is at least as appropriate a title as that of Procurator-Fiscal, who is the analogous functionary in Scotland. I need hardly repeat that such functions are, of course, work for the lawyer, not the doctor. Do I mean to set aside my professional brother as of no use? Quite the contrary; I reserve for him his proper professional work, and point him out as the indispensable adviser and guide of the public prosecutor in every case where medical considerations are at all involved. I am persuaded that if this principle of the proper division of labour were adopted in England as it is in Scotland—the lawyer to conduct the investigations, the doctor to be the interpreter of the medical questions which arise—there would be a solution of many, if not of most, of these difficulties, of which so much is said as to the office of coroner.

The chief of these—for I have not time to look at the half of those which have been propounded—relates to the difficulty of getting properly qualified men to furnish the necessary evidence. This difficulty has two roots: one educational, the other financial. If you find that the medical profession cannot furnish, readily and easily, men qualified to make and report a *post mortem* examination, let the various graduating and licensing bodies lay it to heart and see that the rising generation of doctors are ascertained to have attended to the subject of pathological anatomy, and I am much mistaken if this is not already being done by all licensing bodies worthy of the name. But even supposing that the bulk of the profession were as ill furnished with pathological information as any man can fancy, I maintain that you can easily command the services of competent men if it were not for the financial difficulty. I do not believe there is any place so out of the way in England that you could not, in a few hours, bring to the spot a man well qualified to make a *post mortem* examination. The telegraph and railway will do it for you, but you must pay him. I ask no extravagant fees; nothing like what a man would rightly exact who is called to a consultation; but at least in some measure pay him as you would a professional gentleman, and not as you would an artisan. Let me, however, say a word to the profession on this point. Do not be too exacting; do not expect to make money by medico-legal work; but with even a comparatively slender remuneration be content, and console yourself for small payment with the reflection that you may thereby personally gain repute, and that you are showing to your country how truly a scientific profession, how far reaching in its influence, that of medicine is.

You will say, but how is the prosecution to know where to find this qualified man, if it be willing to pay for him? I can understand the difficulty under the system of prosecution by private parties. A solicitor, who is only now and then, perhaps at rare intervals, called upon

to carry out a prosecution, may readily be at his wits' end, and may very likely select the wrong man; but the public prosecutor, who is constantly engaged in the investigation of suspicious cases, will soon come to learn the character of the medical man within his call, as he will through his myrmidons come to know the character of every thief and poacher in the county. He will make it his business to be informed about these doctors. His first precognition of a medical man will show him whether the doctor is or is not a well informed man, capable of answering questions in a clear and ready way, capable of expressing himself distinctly; in short, whether he is a good expert and a good witness, and if he be not up to the mark he will not have any more to do with him. There is no need, in my opinion, for the official, be he coroner or what you will, having a special appointment made of a man to be always called upon, or even a special list, from which he must make his selection. He will naturally turn his eyes to the man in such a position as that of a medical officer of health or medical officer of police, and, if he find him a good man and true, will have recourse to him; but there is no need for a special appointment. We have none of this in Scotland, under our system of public prosecutors. For more than thirty years, I have been constantly engaged in conducting investigations and giving medico-legal advice to our Crown authorities. Successive lord advocates, with their retinue of solicitors-general and advocates-depute, have been pleased to continue their confidence in me. I do not hold and never have held any formal appointment, and they are at perfect freedom, and it is right they should be so, to go to anyone else when they think he can serve them better than I can.

Although holding no formal office under the Crown, I am in no dubiety as to getting my due honoraria. No procurator-fiscal can call upon a special expert, for instance, by sending him articles for analysis, on his own authority. These must always come through the Crown office, to which I look for my fees, and I have no reason to complain of my remuneration for this kind of work. It rests with myself if I am underpaid. I and all my brethren, however, do complain of the Exchequer rules regarding payment for attendance at trials. To allow a medical man only two guineas a day and railway fares for attending a circuit court, is simply disgusting. Who "mylords" are who are obdurate in this matter I do not exactly know, but I know it has been remonstrated against, not only by medical men themselves, but by Crown counsel, who have occasion to call them as witnesses. Nor have the Crown authorities any difficulty in conjoining with me or substituting for me any man who they have reason to believe has a special knowledge, of which it is advisable they should avail themselves. I have ever found them ready to adopt any suggestion of mine to call in a special expert, when I wished my opinion in a difficult case to be confirmed by other testimony. Is there any reason why this should not be done in England? If not, which I believe to be the fact, why these complaints from legal coroners and others as to the difficulty of getting properly qualified experts? If there be, what can make the difference between my country and yours, excepting the existence among us of the public prosecutor?

And now, gentlemen, since, by a rather tedious journey, we have got to Scotland, let us for a moment glance at the initial investigation of a suspicious case as it is conducted there. I suspect there are very false ideas abroad in England respecting it, and I do not find that your legal writers, who are the proper people to do so, have taken any special pains to dispel them. It is to me rather remarkable that such a writer as Sir James Stephen, in his *General View of the Criminal Law of England*, should give an elaborate comparison of the English and French systems, but should take no more notice of the system of Scotland than if our "land of brown heath and shaggy wood" had never had a place in civilised Europe. In Scotland, the investigation of every kind of case, whether obviously criminal or only suspicious, the inquiry into deaths attended with suspicious circumstances, or deaths from accident, or cases of sudden death, is conducted by the Procurator-fiscal. We need here concern ourselves only with inquiry into deaths and offences against the person. This functionary has for his guidance, not only the law of the land, to which, of course, he must conform, but he has the advantage of a carefully prepared code of instructions, drawn up by the Lord Advocate, and issued from the Crown Office to every Procurator-fiscal. This code of instructions was first issued as far back as 1824, and the edition at present in force is the third, and bears the date 1868. It contains *inter alia* an appendix of fourteen folio pages, furnishing detailed directions to medical men for the making of *post mortem* examinations; such an appendix having been first added to it in 1839 and revised in 1868. It is not for me to characterise these directions, as I had the honour of being associated with Sir Robert Christison and the late Professor Syme in drawing up the existing edi-

tion. Suffice it to say that, besides general regulations for the external and internal examination of a body, it contains special directions for making such examinations in the several cases of wounds and bruises, poisoning, asphyxia in its various forms, burning, criminal abortion, and infanticide, so that it not only forms a guide to medical examiners as to the points to be specially observed, but enables the Procurator-fiscal to know what he has a right to expect in the report of the dissection. When any circumstance, showing a death to be unexpected or ill explained, comes to the knowledge of the Procurator-fiscal, he is bound at once to make inquiry; and, unless this is *prima facie* satisfactory, he has to proceed to take a precognition. To effect this, he presents a petition to the Sheriff of the county, praying for the authority (which is almost invariably granted) to cite the necessary witnesses. Where a death is not clearly accounted for (for instance, by the testimony of the medical man who knew the case), he has to get a written report from a duly qualified medical man; and, where a *post mortem* examination is necessary, two medical men are always employed. The whole of the documents are then forwarded to the office of the Crown agent in Edinburgh, and are by him at once put into the hands of the Advocate-Depute in charge of the district in which the case occurred. If the Advocate-Depute is satisfied that there is no suspicion of crime, he marks on the paper "No proceedings", and the case is at an end; and it is now the duty of the Procurator-fiscal to furnish the Registrar of the district with the due certificate of the cause of death, that it may be entered in his books. If the Advocate-Depute is of opinion that there is a suspicion in the case, he sends it back to the Procurator-fiscal for further investigation, or, if any one be in custody, he orders him to be committed until liberated in due course of law. If there be doubt or difficulty as to how the case is to be dealt with, the Advocate-Depute brings it before the other Crown officers, who are the Lord Advocate, the Solicitor-General, and other three Advocates-Depute; and as these officials meet for consultation generally twice a week, no time need be lost. The result of this consultation may, of course, be to put an end to the proceedings; or, on the other hand, to order the case to be completed; and when this has been done, the whole documents *in causâ*, precognitions of witnesses, and scientific reports, are returned to the Advocate-Depute, who, in consultation with the other Crown Counsel if necessary, draws up the indictment and attends at the trial as counsel for the prosecution. In cases which, either from their *locus* or from their importance, are tried at the High Court of Justiciary, the Lord Advocate himself, or the Solicitor-General, or both in conjunction with the Advocate-Depute, conduct the case in court, the Crown agent and the Procurator-fiscal, with whom the case originated, officiating as solicitors for the prosecution. The proceedings in a Scotch criminal court do not differ essentially from those in England, except in this respect, that, whilst in England all the witnesses may be in court and hear the testimony given before they are examined, the witnesses in Scotland are excluded until called for. But, in special circumstances, alike in civil and in criminal cases, the Court may be asked to permit the scientific witnesses to be present while the general evidence is being taken. I am not here to make a laudation of the practice of my own country, but to give you, as clearly as I can, a narrative of it; but I think, in reference to these preliminary inquiries as to suspicious or sudden deaths, I may fairly say that a body of gentlemen such as Crown Counsel, all accustomed to weigh evidence, and who have been taught Forensic Medicine, discussing the evidence in official chambers, is at least as likely to form a correct judgment as to whether there is or is not a crime to be traced out and punished, as a coroner's jury of twelve men, sitting in a public-house; and certainly the example of holding a judicial inquiry in such a place, by which I observe many persons are greatly exercised, is unknown north of the Tweed.

None of these inquiries by the authorities are, you observe, conducted in public. Upon this subject, I shall presently say a single word; but in the meantime, I allude to it for the purpose of remarking that people, seeing in Scotch newspapers notices of sudden deaths, or of persons found dead, and seeing no reports in the public prints of the investigation of them, are apt to conclude that they are not inquired into at all. In a memorandum addressed by Dr. Alfred Taylor to the conference in November last, he says: "There is no reason to believe that crime escapes detection under the Scotch system more than under the English. On the contrary, experience seems to show that under the English practice it is more likely to remain undetected." I can, I think, give my esteemed friend, now enjoying an honourable retirement from his useful labours in the field of Medical Jurisprudence, some assurance on this point. I know of no system under which it would be impossible for a criminal to escape; but I am, on the other hand, sure that under our Scotch system, in conjunction with our well organised registration, it is extremely difficult. But, in reference to the question as to whether due inquiry is made regarding sudden, or sus-

picious, or accidental deaths, I prefer quoting figures to making general statements. Now I find, from a return made by the Crown agent to an order of the House of Lords, that in the years 1875 and 1876 respectively, the following were the numbers of cases which were made the subject of precognition by the Procurators-fiscal. In 1875, there were 2,516 precognitions, referring to 2,579 deaths; in 1876, 2,606 precognitions, referring to 2,791 deaths. But this is exclusive of cases which, from the first, were connected with charges of murder or culpable homicide, which amounted to, in 1875, 88 investigations, referring to 97 deaths; in 1876, 92 investigations, referring to 97 deaths. I think we may gather from these numbers that the making of such investigations is not neglected in Scotland, when we bear in mind that the estimated population of the whole land in 1876 was only three and a half millions—not so great as that watched over by the London police.

I have hitherto spoken of these investigations without any reference to the way in which Scotch procedure deals with persons when suspected or accused of crime. This does not directly involve medical considerations; but I must say a few words regarding it, and I am quite prepared for your looking upon me as especially heterodox when I speak with approbation of the system of secret, or rather let me call it non-public, inquiry. I respect the attachment to the love of fair play which characterises Britons, whether it refer to sharp dealing with a prisoner in the dock, or to the enormity of shooting a hare in her seat; but in a matter of this kind we must not be guided by sentiment, but look at it with a practical eye, and ask whether the secret inquiry (I purposely use the more offensive expression) is the best for the furtherance of justice. By this I do not mean whether it best conduces to the procuring of convictions; I mean whether or not it is fairest for justice, on the one hand, and on the other to the inculpated party, be he innocent or guilty.

I have my own ideas of its bearings upon justice, and am by no means sure that a public preliminary trial before a coroner or a magistrate, or both, may not tend to defeat justice by leading unscrupulous people, when they see a "pal" in trouble, to fit their evidence to the requirements of his case and do a little astute business in the way of perjury. I rather like to look at the secret inquiry in the interests of the accused; and, provided it is guarded by due securities, it seems to be in his favour—at all events, not to his disadvantage. On these securities I cannot enlarge; they are not peculiar to Scotland. There is, for instance, with us the provision that the public prosecutor, who has no fear of prosecution for wrongful imprisonment or false accusation, can by the accused party be compelled, by a process called running his letters, to bring him to a final trial within a limited period. There is the provision that the public prosecutor cannot spring a mine upon the accused in the way of unexpected evidence, because the indictment which is served upon him must contain a list not only of all witnesses who are to be brought against him, but of every report or other document—yea, of every article, be it a bottle or a rag—which is to be exhibited by the prosecutor; and, as all the witnesses for the Crown are also witnesses for the defence, he is entitled to, and almost invariably takes care to, have them duly precognosed for the defence. What I most dislike is the effect of a public inquiry, fully reported as it is by the press, on the minds of those who are to make the jury at the final trial, where, it may be, the life or death of the accused may be trembling in the balance. "Give a dog a bad name and hang him" is a proverb with a great deal of truth in it. It is all very well for the judge, in his summing up, to tell the jury that they are to decide only upon what has been sworn to in court, and are to discard all impressions which have been made upon them by what they have heard previously. Under a secret inquiry, they have heard nothing previously; they know nothing of what is to be proved until it is proved. If from the newspapers they have heard previously of a murderer's schemes and of his antecedents, which are generally none of the best, can they, with every conscientious desire to do so, shake themselves free from all bias against him? I do not know how it may be elsewhere; but of this, I feel convinced that, in the recent great murder case which we had in Edinburgh, if all that was ascertained by precognition had been published in the newspapers, you could not have found fifteen men to form a jury totally unbiassed against the wretched man, who has passed from the bar of a human tribunal to the judgment-seat of the Eternal. My belief is that, guarded as it now is, private inquiry is the best for all parties.

But, supposing it turned out that there is no crime at all, why should any person, say the last one seen in company with the deceased, be dragged before the public when he is quite innocent, nay, even if his conduct, when inquired into, may involve doings which, though not criminal, are much to his discredit, such as intoxication or other immorality? It is right that he should pay the penalty of his sins, but

not in this way. It is very easy to let the idle portion of the public, always agape for any gossip or scandal, know that a man has been under suspicion of having been guilty of a crime; but, though you prove him innocent, you do not easily free him from the unjust loss of character which this may involve, or deliver him from the inevitable *monstrari digito*. I could, from cases which have come under my own cognisance, fully illustrate the hardship to individuals which may follow from these inquiries being made in public.

Do not go away with the impression that I regard the Scotch system as perfection. There are several *lacunae* in it which I should like to see filled up. One, for instance, is that the death-registers should be inspected, say, once a week, by a medical man; not for statistical purposes, but with a view to seeing that all the causes of death are clear and free from all element of suspicion, and, when this is not the case, at once to direct the attention of the local public prosecutor to the case, so that it may be investigated without loss of time. Another is that it should be made imperative on all candidates for the office of Procurator-fiscal to follow the example of the barristers, and attend a course of instruction on Forensic Medicine. Most of the present occupants of the office have, I believe, done so; but there is no security for this, and the sheriffs with whom this patronage lies should make this a necessary qualification. I must not, however, go further into details.

Gentlemen, I have to apologise for having detained you so long. I cannot expect you to accede to my opinions, but all I ask of you is, that you should, as Englishmen, not look askance on a system of criminal jurisprudence which is geographically separated from your own only by the Tweed and the Cheviots, and from which, whether regarded from a medical or legal stand-point, permit me, as a Scotchman, to say I think English jurisprudence might usefully take a hint or two.

AN ADDRESS

DELIVERED AT THE OPENING OF

THE SECTION OF PUBLIC MEDICINE,

*At the Annual Meeting of the British Medical Association,
in Bath, August 1878.*

By JOHN T. ARLIDGE, M.D., B.A.Lond., F.R.C.P.Lond.,
Physician to the North Staffordshire Infirmary;
President of the Section.

ON OCCUPATIONS IN THEIR RELATIONS TO HEALTH AND LIFE.

GENTLEMEN,—My first duty, in coming before you, is gratefully to acknowledge the honour conferred upon me by my election to the office of President of the Public Health Section, at this annual meeting of the British Medical Association. It is not for me to question the choice made, but, so far as I can, to justify it by giving my best talents and energies to fulfil the duties of the post, and to render the Section a success.

Among other duties, I find myself called upon to deliver an address bearing upon the scope and purposes for which this particular Section is instituted; and, after inwardly debating what its subject should be, I have come to the conclusion that a special topic of public medicine will be preferable to a general dissertation upon the whole theme.

In adopting this course, I do not conceive that I have taken the easiest one; for I suppose it would have cost me less study and pains to address you on the importance of Public or State Medicine, on the valuable results it has attained, on its future plans of usefulness, or on its past history and progress; or, again, leaving matter of fact, to soar into the realms of imagination, and to portray some Utopian scheme of public health and construct anew a Hygeiopolis. But I refrained from dealing with these wide, though interesting, subjects; because, in the first place, they have, for the most part, been amply handled and more artistically placed before you than they could be by myself; and, in the second place, I am of opinion that the subject I have selected is one neither sufficiently recognised nor discussed: I refer to the subject of the Influence of Occupations upon Health and Life; in other words, the Diseases of Trades.

The influence of occupations upon health may be examined from two points of view, viz.: 1. Their influence upon the community at large and outside the factory; and 2. Their influence upon those engaged in

them. It is from the latter point of view that I shall attempt to consider them.

Causes affecting the health of the body, for better or worse, have been searched out on all sides, and have been discovered in climate, in diet, and in sanitary surroundings. The search has been prolific in books on climate, on soils salubrious and insalubrious, on health-resorts, and disease-haunted spots; probably even more prolific in works on diet, telling mankind what to eat, drink, and avoid, abounding in excellent rules, which all men approve and none practise. Lastly, again, the search has of late years given birth to a multitude of books and tracts on matters hygienic and sanitary, calculated to almost alarm ordinary people by the display of the sanitary dangers surrounding them, or else to perplex them by the thousand and one schemes propounded to infallibly preserve their health and to prolong their sojourn upon earth, and varying in magnitude from simple sanitary appliances to the construction of a city of health. Nevertheless, in all this flood of sanitary literature, very little is to be found written on the occupations of the people and their effects upon health. This is true especially of this country. In France and Germany, many treatises have appeared on this subject; and in England, so far as I am aware, no independent work has been published besides the meritorious one of Thackeray "On the Effects of Arts, Trades, and Professions on Health and Longevity", in 1832. Of necessity, this work has ceased to truly represent the circumstances and processes of manufacture found at the present day. Beyond this work, we have nought else than papers read before societies and a host of pamphlets discussing single questions, and particularly statistics.

Parliamentary literature has, however, largely filled the void of books written by private individuals. Since attention was drawn to factories and their workpeople, eighty years ago, numerous Blue Books have been printed by command; and without acquaintance with this mass of publications no one can form a correct notion of the advancement made in manufacture, in the processes and machinery employed, or in the physical and moral condition of the operatives.

It is worth while for a few minutes to sketch the rise and progress of parliamentary action in the interests of the factory population. At the close of the last century, when the future pre-eminence of this kingdom had its birth, and the textile manufacture more particularly assumed proportions of magnitude, the relations of master and servant, of employer and employed, had acquired no clear and definite character or bounds. Work hitherto had been carried on in cottage homes and in small shops. Manufactories were novelties, and associated labour was without precedents and without law. Apprenticeship was the ancient institution, and it was attempted to graft it upon a new one. As a matter of course, the attempt failed; and, instead of the free apprentice protected by his indentures, a class of hands were drafted into the new factories, gathered from workhouses and the floating population of towns. The consequences of this state of things soon betrayed themselves in wretchedness, sickness, disorder, and immorality on one side, and of much oppression and ill-treatment on the other. The law of master and servant was at the time such, that the apprentices were virtually slaves and the masters slave-owners.

The father of the late Sir Robert Peel was one of the first of the statesmen of the period who, in his place in Parliament, made an effort to mitigate the evils of the apprentice system in factories by legislation. The system had then grown to the dimensions of a public scandal. Mainly by his influence, inquiries were instituted, and in 1816 a commission reported upon the condition of factory operatives. In 1819, an Act was passed to carry out the amendments proposed by it. This was the first rudiment of factory legislation. Soon, however, the Act was found ineffectual; and the spread of epidemics among factory hands, the prevalence of deformities consequent on their work, the amount of overwork, the irregular hours of work, the state of moral degradation and the crass ignorance among them, made further investigation and legislation a matter of necessity. Hence a second commission was appointed, which prosecuted a lengthened and minute inquiry, by the report of which the lines of future legislative action were laid. This commission had only a short existence; but the revelations it had made, and the immense field for inquiry it had opened up, induced Parliament to appoint the Children's Employment Commission, which, by repeated renewals, carried on its work until a few years since.

In 1844, the comprehensive and very complete Factory Act was promulgated, which, with some modifications and additions, has remained in force to the present day, although destined to give place to a consolidation Bill next year.

Since 1844, several inquiries and reports have been made by the Children's Employment Commissioners; the last and most important in 1865.