SOUTHERN BRANCH.

THE ETHICS OF SECRECY IN THE LEARNED PROFESSIONS.

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A FEW years ago a surgeon was called to attend a gentleman just recovering from an outburst of debauchery, in which he had contracted gonorrhœa and two soft sores. The patient was in a state of maudlin contrition, and had sent that morning for his spiritual director, to whom he had made certain confessions. The surgeon could see for himself all that he considered necessary, and begged him to be silent, but he insisted on confessing how it all had happened. A few weeks afterwards, as his wife "had turned quite nasty about his illness," he sent for his solicitor, and then for the third time he made a clean breast of it. For some months those confessions remained securely locked in the breasts of the priest, the surgeon, and the solicitor; but the matter then came before the Divorce Court, and the three confessions were treated in an entirely different manner. The solicitor in virtue of the privilege accorded by the law of England to the legal profession maintained absolute silence. The priest, having no claim to privilege, had he refused to reveal the confession might have been committed for contempt, but the judges have an unwritten rule that overrides the law: no priest ever reveals a confession, and no judge ever commits him for observing silence. But neither privilege nor unwritten rule comes to the aid of the surgeon; in this case he was sworn, and had to tell in court all about the gonorrhœa and the two soft sores, and was also asked about the confession. Here he appealed to the Bench, and wished to draw the line at confessions made under the seal of secrecy, but the judge ruled that the questions must be answered. Then the secret came out. The gonorrhœa and the two soft sores had been contracted one dark night while making water against a dirty cart wheel. Whether the confession made to the solicitor was the same we shall never know, for lawyers are privileged. Sir George Jessel says that it is quite necessary they should be so, because the law is so complex that a man must have a lawyer to defend him.

The rule really arose in classical times although from the same necessity. Each kind of injury required its own particular form of action to redress it, and the formulæ of these actions were guarded with the greatest secrecy by the Pontifical College.¹ It became absolutely necessary, therefore, to employ a lawyer skilled in these mysteries, and the lawyer and the client came to be regarded as one person in the suit, one body with one tongue. From that time until now the lawyer has had the right to be silent except when his client consents to his secrets being revealed. The secret, however, was always regarded as the property of the client, not only in Greece and Rome but by the great civilians of Holland.

"Neither attorney nor counsel," says John Voet, "may be called as a witness in any case in which they are engaged; and it would be quite as infamous for them to reveal the secrets of their client as for a priest to reveal the secrets of auricular confession."²

Evidently in Voet's day the priest possessed the greatest right to be silent, and the secrets of the confessional the highest claim to be kept sacred. But they were not always so regarded. During the first few centuries of the Christian Church the confessions of penitents were in no way secret, but were made publicly before the congregation of the faithful. This custom was continued in the Eastern Church down to the end of the fourth century when the practice gave rise to scandal, especially on the occasion of a lady of high rank publicly confessing that she had been seduced by one of the deacons of the church. To prevent a repetition of this scandal Nacterius, the patriarch of Constantinople, abolished public confession, and ordained that in future confession should be made in sight of the congregation but into the ear of the priest.³ Both in the legal and in the clerical professions it is clear that secrecy arose out of a regard for the interests of the attorney and of the priest, and not from any special consideration for the client or the penitent.

In England the silence of the attorney is a duty from which the client may release him, but as soon as we pass from Dover

to Calais we find the whole position and moral aspect of secrecy is changed. In France it is no longer a moral duty, it is a jurat obligation, and the State has a right to the attorney's silence. In England the attorney ought to be silent, in France he must be silent, and any breach of silence is a misdemeanour under the Penal Code. The full bearing of the Code was not at first realised, and for fifty years after it came into force it was regarded as directed only against indiscreet revelations, and an attorney might answer or abstain from answering as his conscience might direct;⁴ but gradually the rulings of the courts have made secrecy more and more absolute, and now neither the client nor the Bench can absolve the attorney from it.

The law views the transgression of this professional duty independently of any motive leading to its violation, or any malice influencing it; it has desired in the interests of public order and higher morality to make secure and unassailable the confidences which are entrusted to certain professions and to guarantee the repose of families who have been led to disclose their secrets by reason of the necessity for this confidence.

Finally last year it was laid down that lawyers have "no option or discretion and the rule of professional secrecy permits of no exception."⁵ So much for legal privilege in this and other countries.

In commenting on the privilege of lawyers Lord Brougham said, "It is certainly not easy to discover why a like privilege has been refused to others and especially to medical advisers."⁶ But if we consider the three confessions with which we started we cannot fail to observe that after all what the priest or the lawyer knew was only what the patient had told them. It was at best but secondary evidence, and if his confessions to them were identical with that which the surgeon was obliged to disclose, you will, I think, agree with me that they would have afforded testimony of very questionable value. But the rest of the surgeon's evidence must stand in a different category: he was no longer speaking of something that someone had told him, but of material facts within his own knowledge; and if the existence of gonorrhœa and soft sores was a fact necessary to enable the court to discover the truth of the matter in issue, then his evidence is essential; and if evidence that is essential be technically excluded the proper administration of justice becomes impossible.

Medical secrecy has another aspect. Besides disclosures made compulsorily in a court of law, revelations may be made indiscreetly in the intercourse of daily life. By the "Oath of Hippocrates" the young physician abjured gossip and promised not to reveal what he saw or heard.⁷ Various modifications of this *sponsio academica* have been in use ever since by universities and corporations in all countries. After a time it was found that many secrets were not included in this oath, as they were neither seen nor heard, and in the sixteenth century the University of Paris used a formula which included secrets seen, heard, or understood.⁸ The physician who removes a fresh three months' placenta from the patulous cervix of a woman infers that she has recently aborted. He may not have seen her abort, and may not have been told anything, but he understands it and the secret is classed among the *arcana intellecta*. Whether true or not it is the property of the patient, and save for some sufficient overruling reason it may not be divulged without her consent. If the patient suspects that the doctor is about to betray her confidence she may stop him by injunction; and if she finds that the betrayal has already taken place she has her remedy by an action of slander and libel, and the amount of damages awarded is sometimes enormous.

A lady was brought by her medical attendant to a well-known London gynaecologist, to whom she chanced to be related by marriage. Together the physicians removed under chloroform what appeared to be the fresh placenta of a three months' ovum. Knowing that her husband had been in Australia for more than a year, the consultant told her that unless she could state that her husband had been in England within three months he should be compelled to ask his wife to drop her acquaintance. She hesitated, but ultimately made the statement which she afterwards admitted to be untrue. But before she had done so the consultant, forgetting the maxim about *arcana intellecta*, had already spoken to his wife and her brother. In the witness-box he swore that in his opinion she had recently been pregnant, but by advice of counsel he did not plead justification. It was contended that the communications made to his wife and her brother were privileged, being made without malice, and purely from a sense of the social duty he owed to his wife, daughters, and nieces. The jury held that his imputations on the chastity of the lady were not proved, and that the communications made were neither privileged nor without malice. They raised the damages claimed from £5,000 to £12,000.

As in France professional secrecy has reached a higher development than in any other country, a brief sketch of its

evolution and operation there may serve to show what are the practical advantages and disadvantages of the doctrine of absolute secrecy, and we may thus be able to select what is useful and to avoid what is undesirable when we come to make any change in our own law.

By Article 378 of the Penal Code physicians, surgeons, chemists, midwives, and others, who by reason of their profession or calling have had secrets confided to them are punished by fine and imprisonment if they reveal those secrets, except when they are obliged by law to become informers. Besides these penalties they are liable under the Civil Code¹⁰ to make compensation to the aggrieved person. Just as it was in the case of attorneys the real meaning of the article was not at first understood. For eighty years the courts held the view that revelation to be culpable must be made with intent to injure,¹¹ since by common law criminal intention is the fundamental element of all misdemeanours, and they declared that this view was supported by the fact that the article was placed in the Code under the heading "Calumnies and Injuries."¹² This of itself showed that it was directed against indiscreet revelations inspired by spite or the wish to defame or injure.¹³ But in 1885 the Cour de Cassation declared that intention need not be proved, that the offence has been committed when the revelation has been wilfully made, independently of any intention to injure. In the case then before the court it was quite clear that there had been no intention to offend.

A journalist in an obituary notice of M. Bastien-Lepage said his death had been accelerated by a voyage to Algiers undertaken by Dr. Watelet's advice. Dr. Watelet wrote indignantly to *Le Matin* that the voyage had nothing to do with his patient's death, which was caused by a malignant tumour of the testicle. An operation had been performed two years before, but the patient was left feeble and rheumatic, and had been sent to pass the spring in a milder climate. The patient was dead, and his sensibilities could not have been wounded, but the Public Prosecutor instituted proceedings against Dr. Watelet, under Article 378, for having wilfully published a letter in a newspaper on the cause of the death of one of his patients, which contained facts secret in their nature, with which he became acquainted in his professional capacity. He was fined £4.

Let us see how this interpretation of the law affects everyday medical practice in France. I will take a parallel case to that with which we began.

Madame Rémusat in a suit for judicial separation sought to prove that she had suffered from a disease communicated to her by her husband. She called Dr. Fournier, whom she had consulted at the time, but he declined to give evidence. As it was she who had employed Dr. Fournier, and as she now released him from the obligation of secrecy, the Judge of First Instance ordered him to testify. But on appeal this order was reversed, the court ruling "that the husband participates in the confidences reposed by the wife in the doctor, and the secrets of the wife must also be the secrets of the husband. The law makes no exception of any kind, and professional secrets must remain impenetrable."¹⁴

In another case all the parties interested joined in releasing the doctor, and requested him to say what he knew.

A man married a widow with two daughters, one of whom had since married and was found to be syphilitic. She then accused her stepfather of having communicated the disease to her. He said it was untrue, and declared that the doctor had warned him that she was a girl of loose habits. The mother also said the doctor had cautioned her in the same way. The doctor refused to answer any questions although released by the father, mother, and daughter.

The Medico-legal Society of Paris held he was right to refuse to testify.

Two brothers called on a specialist in nervous diseases in Paris. The elder asked the doctor to examine the younger carefully, for although he looked in perfect health, he was altered in his manner of late. After the consultation the doctor told the elder that it was a case of incipient general paralysis, and that it would probably end fatally in three or four years. The elder at once insured the life of the younger for £4,000. The company came to know the facts, but could prove nothing, and when the claim was made three years later they had to pay.¹⁵

The Court of Besançon tried recently another case.

A man entered into a contract, giving as security an annuity on his life. He died three weeks afterwards. An attempt was made to set aside the contract on the ground of want of *bona fides*; he knew that his death was imminent and that the annuity was consequently of no commercial value. The plaintiff produced a medical certificate, and desired to call the doctor and produce the prescriptions, but the Court decided that the certificate produced was a violation of professional secrecy and the doctor could not be examined. The fraudulent contract was sustained, the Court holding that the secret of a patient's disease was his exclusive property, which he had a right to carry with him to the grave, and nothing could free those to whom the secret had been entrusted from the obligation of keeping it; his heirs have no power to do so.

A baker in Havre insured his life for £400, which was claimed by the guardian of his three young children. By the conditions of the policy the company required a certificate from the doctor in attendance stating the nature and duration of the last illness; the doctor had scruples about certifying and refused. The guardians sought by *mandamus* to compel him, but the Court decided that he could not be compelled. The Medical Association of Havre thereupon passed a resolution that it was always improper to give certificates indicating the nature of the illness from

which a deceased patient suffered. It was contended in this case that the deceased had consented to this condition of the policy, but it was answered that even if he had consented for himself the secret also affects his children and must be respected.

In 1892 a gentleman in Marseilles was insured by a third party in May and died of phthisis in November, as appeared from the certificate of Dr. X. which accompanied the demand for payment. The company disputed the claim on the ground that the deceased suffered from a fistula which had not been disclosed in his proposal. The Court authorised the company to prove concealment. But before Dr. X. was examined his evidence was objected to as a violation of Article 378. The Court of First Instance held that it was no violation of the Article, and that it had a right to demand such evidence as was necessary to discover the truth of the issue it was trying. But the Court of Appeal¹⁶ reversed this ruling and decided that the verdict could not be founded on the deposition of Dr. X., whose evidence was a violation of Article 378, the facts revealed being secret in their nature and known only to Dr. X. in his professional capacity.

The general feeling in France seems to be that the family attendant should never make an insurance report, and even the company's referee should merely recommend the case for acceptance or rejection. But as the report is always largely based on the proposer's answers, there can be no way of testing the truthfulness of the answers unless they be recorded and can be referred to afterwards; then come the scruples again. The answers contain secret facts about the health of the proposer's father and mother, or brothers and sisters. "Such answers affect and compromise the graver interests of others, and ought not to be given." M. Legroux¹⁷ gives another reason why we should not make a full report even if our patient wished it: we might mention some malady only known to ourselves; by an indiscretion of the company's officers our patient might read our report, and learning that he had, say, an aneurysm or tendency to apoplexy he might die suddenly. Thus scruples of conscience go on multiplying until the ordinary business of life becomes impossible; and you will see how far this has already gone when it is now ruled that club certificates must never mention the disease. A surgeon at Lille was fined 16 francs for having revealed to the president of a friendly society the nature of the illness from which one of its members suffered—"such diseases as epilepsy often affect injuriously his relations as well as the member himself"—and, again, the scruples appear. "Nothing can authorise us to reveal a secret a portion of which belongs to another."

The theory of a man's disease being a secret belonging to himself, and which he may will away or have buried with him is wholly opposed to public policy. If carried to its logical conclusion it would make life insecure, and the detection of crime impossible; the nature of a man's last illness ought to be, and usually is, known and acknowledged. If there is any doubt about it the coroner very properly clears it up. If such checks on imposture as the usual club certificate were not used, then the members' contributions would have to be doubled, and the innocent would be fined for the guilty.

Such scrupulous honesty about the visionary property in secrets strikes English readers as somewhat remarkable when contrasted with the apparent approbation with which the very questionable material results that flow from this law are received.

A patient asks you if he may safely consent to his daughter's marriage to a man whom you know to be suffering from uncured syphilis. Tardieu and Gaide very emphatically say their conscience must be heard above the law.

Rather than allow a pure girl, the joy of her family, to be given to a man who would pollute her at the first touch, and as her only consolation would leave her with children infected with their father's disease, without hesitation say, "No, do not give your daughter to that man."

Professor Brouardel, in his very admirable monograph,¹⁸ says they are wrong; they are acting contrary to the law. They forget that they would not have known of the existence of syphilis if their patient had thought they would betray him; the patient did not come to them because of their moral qualities, but sought their medical aid knowing that the law and tradition alike secured their silence. The physician may warn the young man against the consequences of the marriage, and point out the exposure that is likely to follow. If this fails he may advise the father to insist on life insurance, trusting to his being rejected. He must, however, be silent even if the father brings a written release from the young man. Dr. Placzek also supports this view.¹⁹ I should like, however, to compare the advice to be silent which Professor Brouardel gives in this case with that which he gives in another. Suppose you are called to a patient whom you find

being slowly poisoned, are you to speak? The Society of Medical Jurists of Paris said unanimously that such a crime "discovered in the course of practice is a professional secret which the law and the decisions of the Supreme Court oblige us to observe." Professor Brouardel very properly dissents from this view. He says, "You must cure your patient if possible, but at least you must protect him, and in this case revelation seems to me obligatory on the doctor's conscience." He also admits that it is obligatory in cases of epidemic diseases; but he says the law of silence must especially be applied in venereal diseases and diseases said to be hereditary. His advice then amounts to this, that if your patient is being given small doses of a chemical poison you must protect her and you must also protect her from anyone who is still infectious where it is a quick-growing microbe like that of diphtheria, small-pox, or yellow fever; but when the microbe grows slowly like the bacillus of syphilis or tubercle you must allow her to become infected, although you know that syphilis will kill as certainly as small-pox, and for a greater number of generations. It would require a very skilled casuist to say why we ought to do so; we must protect our patients without indiscreet or unprivileged disclosure.

The rule with regard to denouncing crimes seems to be, that although you are not bound to inform the police of a crime that has been committed, and you are not guilty of misprision if you are silent, yet when a crime is about to be committed it is the duty of the doctor to inform the authorities, since by keeping silence he may make himself an accessory to the crime.

A very difficult question arises when the doctor knows that an innocent person is wrongfully accused, and stands in grave peril. In France he must not reveal. He may appeal to the judges. Says M. Hémar:

An upright man offering himself for the defence and proclaiming the innocence of the accused, in spite of the silence enforced by his professional calling, would make a profound impression on the judges.

Professor Brouardel says:

We ought by every means short of betraying our secret to try to bring about the safety of an innocent man, but under no pretext may we betray our confidant, even though guilty.

I am afraid that English judges are not very impressionable, and they would probably desire to find out by cross-examination whether the "upright man" had not possibly been imposed upon by a confederate. There seems to be very little difference between allowing a man to commit a crime and allowing him to get another man falsely condemned. If in the first case we are accessory before the fact, in the second we are not quite innocent. It is our duty to prevent Balbus from being killed by poison; but, when he is falsely accused of murder, should a dramatic appeal to the judges fail to save him, you must let him be hanged though you know him to be innocent. You may console Balbus by telling him that in each case you are doing your duty; but the distinction is fine, and Balbus only knows he is being killed in either case.

Questions often arise as to whether we are right in suing for a bill which would reveal professional secrets. I believe in England the practice is to forego the fee rather than in any way to betray the patient. Cicero says:

Doctors, who are admitted into marriage chambers and under strange roofs, have to keep many things secret, even when they are wronged, albeit it is difficult to hold your tongue when you are made to suffer.²⁰

In France such cases are severely punished when there appears to be an intention to extort.

A surgeon sued a patient for 300 francs, the amount of a bill in which he set forth with unnecessary particularity attendances during two serious attacks of syphilis contracted at different times in 1862 and 1863; also attendances on the wife while treating her for disorders (all minutely described) communicated to her by him. He was sentenced to one year's imprisonment, five years' police supervision, a fine of £20, and £40 civil damages.

In considering probable changes in the law of professional secrecy, we must bear in mind that the tendency of modern legislation in this country is to extend the admission of evidence and remove rather than create incapacities—in short, to exclude no one who can throw light on the question before the court. "Evidence," says Bentham, "is the basis of Justice; to exclude evidence is to exclude justice; let in the light of evidence."

In Scotland a curious attempt has recently been made to remove the duty of silence from its place, and give it an intermediate position between moral duties and legal obligations. The Court of Session has decided—²¹

that secrecy is an essential condition of the contract between a medical man and his employers, and breach of secrecy affords a relevant ground for an action of damages.

This decision requires confirmation before it becomes a ruling case. To say that a surgeon enters into a nude pact with every patient that crowds the casualty room of a hospital is a pure legal fiction. No such contract exists, and saying so is simply begging the whole question. It is much better to leave the matter on the old ground of delinquency and reparation when motive would form an important element. The effect of this decision is to raise silence to be a quasi-jural instead of a moral obligation, so that motive or intention need not be considered but merely breach of a conventional contract, with a clause of secrecy implicit in it.

In the penal code of almost every country articles of a similar kind to article 397 of the French code exist²², and I need only point out one or two variations. In Germany "all those who are employed to assist the doctor" are embraced in the article: and revelation may be made with the patient's consent²³. In Belgium²⁴

the revelation of secrets ceases to be punishable when the law requires that such secrets should be made known or when the doctor is examined in a court of law; then he may declare the whole truth and state things secret in their nature if he considers it right to do so, but he has it in his discretion to be silent.

In Italy there is a similar article, but the surgeon is bound to notify to the police within 24 hours all cases of poisoning, wounds or bodily injuries of any kind which he has been called upon to treat. In the United States secrecy is secured by the civil codes of New York, Missouri, and other States. A doctor must maintain secrecy and cannot be examined in a civil action without the consent of his patient. In insurance cases the insurance law enabled a doctor to report on the physical condition of his patient, but quite recently Governor Roosevelt has signed an amendment which absolutely prohibits a doctor from divulging any information concerning his patients either before or after their death. How the courts may interpret this amendment remains yet to be seen, but the tendency in the United States seems to be to follow the lines of the French Penal Code.

In England silence is a duty, and its transgression really hinges on the question of privilege. It seems better that the judge should decide each case on its merits than that any attempt should be made to lay down a hard and fast rule.²⁵ It has been said that in the Court of Equity the Imperial standard varies with the length of the Lord Chancellor's foot. That may be so; but, even allowing for that personal equation, justice is meted out by a very acceptable rule. At present it lies with the judge to refuse to allow unnecessary and useless disclosures to be made, while at the same time he sees that no material facts which can assist the Court in arriving at the truth are withheld. It must always be doubtful what is and what is not a privileged communication or a privileged occasion; but that appears to be a lesser evil, and conflicts less with justice than the strict rule of secrecy that holds good in France. Every act which is a proper object of ethics is not necessarily a proper subject for legislation and punishment. It is not desirable to raise what is a harm to the technical rank of a wrong; and, speaking generally, punishments ought not to be inflicted on acts which may be otherwise prevented, especially where the punishment produces greater mischief than the act itself.²⁶ In this country it has been found that indiscretion has been sufficiently controlled by the sense of honour that exists in the profession, leaving the law of slander and libel to deal with cases in which damage or positive wrong has resulted. This admits of ordinary information being given which is not intended to be, and need not be, injurious to anyone, but which is useful in the ordinary business of life, and often a solace to the sick man's friends. In the case of those great ones who live in the hearts of the people, the facts of their condition are eagerly looked for as the wave of life ebbs and flows, and it would be cruel to hide them uselessly behind a penal statute or say they must be buried with them when they die.

There are many duties which we are called on to perform which must often conflict with other duties equally important. In France the duty of observing secrecy has been raised to the rank of an obligation in the interests, it is said, of public order. But the supreme law has other principles besides order which ought to be considered in questions of this kind: humanity, justice, truth, and purity, are also cardinal virtues.

How does Article 387 support those other moral principles which underlie our actions? Is it in the interest of justice and truth that the only evidence on material facts which can enable the Court to arrive at the truth should be technically excluded? To give a very modest piece to the doctor is a way of getting rid of all the essential evidence in a cause, and the doctor's gambit is already a very favourite opening in the swindler's game. Is it in the interests of humanity and purity that a woman to whom a loathsome disease has been communicated by a dissolute husband should find herself chained to him for life, and unable to gain the ordinary means of redress because the only witness who can prove this material medical fact has scruples of conscience, or is technically excluded from testifying?

When moral principles urge us in different directions, order pointing one way, justice or humanity in another, our conscience alone must shape our course. The stars in their courses do not move in rigid circles, but, by the law of universal gravitation, the forms of their ellipses are moulded by every orb in their system; and although in questions of conflicting duty we have no Newtonian law by which we can solve our difficulties, yet our path must not be influenced wholly by one principle nor by another, but it must lie in the resultant of these forces.

Twice in the last few weeks I have read in the newspapers of cases in which medical men found themselves face to face with conflicting duties of this kind. A medical man at Nottingham refused to give evidence in a court of justice because he had conscientious scruples about breaking the academical promise to avoid gossip which he had made to his Alma Mater. It is needless to say that no society, whether it be a university or a suicide club, is permitted to make private rules for its members that can override the law of the land. Lord Mansfield puts it very clearly:²⁷

If a surgeon was voluntarily to reveal secrets to be sure he would be guilty of a breach of honour, but to give that information in a court of justice which by the law of the land he is bound to do, will never be imputed to him as any indiscretion whatever.

Here we have a medical man in the presence of two conflicting duties, the desire to be silent and the desire to co-operate with justice urging him in opposite directions.

The other case was that of a surgeon appointed by the Court of Quarter Sessions to examine police constables applying for superannuation. He also had scruples about giving that medical information which it was his public duty to give, and which was necessary to enable the magistrates to do their duty. It was a conflict between the desire to be silent and the desire to perform the duty of his official appointment.

It is when we are assailed by conscientious scruples of this kind that the difficulty of finding the resultant of the forces that impel us is likely to be felt. Any advice of mine would be of little value, but let me rather give you that of the late Master of Balliol, who was not only a great moralist, but pre-eminently a man of the world:

In daily life cases often occur in which we must do as other men do, and act upon a general understanding, even though unable to reconcile a particular practice to the letter of truthfulness or even to our individual conscience. It is hard in such cases to lay down a definite rule, but in general we should be suspicious of any conscientious scruples in which other good men do not share. We shall do right to make a large allowance for the perplexities and entanglements of human things; we shall observe that persons of strong Mind and Will brush away our scruples: the man whom we emphatically call "honest," "able," "upright," who is a religious as well as a sensible man, seems to have no room for them..... Strange as it may appear, it is nevertheless true, that scruples about lesser matters almost always involve some dereliction of duty in greater and more obvious ones. No one can fix his mind intently on a trifling scruple, or become absorbed in an eccentric fancy, without finding the great principles of truth and justice insensibly depart from him. He has been looking through a microscope at life, and cannot take in its general scope; the moral proportions of things are lost to him.²⁸

Let us endeavour to preserve the moral proportions of things. Our own law may be uncertain and difficult to understand, while foreign codes are simple and have an attractive semblance of being in the interest of public order and higher morality. But I would sound a note of warning before we drift into the doctrine of absolute secrecy, and would ask you to consider carefully the safeguards we ought to adopt to prevent ourselves from being made the passive agents of injustice and wrong.

NOTES AND REFERENCES.

¹ Cicero: Pro Muræna § 11: De Oratore, i. i. c. 41; Pro Q. Ros. § 8. ² Voet: In Pand., lib. 22, t. 5. ³ Sozomen: Hist. Ecc., vol. vii. t. 16. ⁴ See Rulings of Criminal Chamber, May 24th, 1862. ⁵ August 18th, 1882, December 19th, 1885. ⁶ Gazette des Tribunaux, 10th May, 1899; La Semaine Médicale,

May 17th, 1899. ⁷ Greenough v. Gaskell, 1 M and K, 103. ⁸ Meibomius: Hippocratis Magni Orkos sive Jusjurandum, 1643. ⁹ Aegrorum arcana visa audita intellecta eliminat nemo. ¹⁰ Articles 1382 and 1383. ¹¹ Hémar: Le Secret Médical (Ann. Hyg. xxxi, 187). ¹² Dalloz Repertoire de Législation. ¹³ Crim. Chamb., July 23rd, 1830. ¹⁴ Grenoble, August 23rd, 1828. ¹⁵ Legrand des Sauts: Méd. Lég., p. 1243. ¹⁶ May 18th, 1899. ¹⁷ Al. Legroux: Arch. Gén. de Méd., August, 1878. ¹⁸ Brouardel: Le Secret Médical, p. 47. ¹⁹ Das Berufsgeheimnis des Arztes, von Dr. S. Placzek Leipzig, 1893. ²⁰ Medici qui thalamos et tecta aliena subeunt multa tegere debent etiam laesi, quamvis sit difficile tacere cum doleas. ²¹ A. B. v. C. D. 14, Dunlop, 2nd Series, 177. ²² Austria 498, Belgium 458, Germany 300, 328, Holland 272, Italy 380, Portugal 290, Russia 872, Spain 378, Switzerland (Freiburg) 110, Turkey 215. ²³ Das Berufsgeheimnis des Arztes, von Dr. S. Placzek, 1893. ²⁴ Code Pénal Belgc. J. G. Nipels, Bruxelles, 1878. ²⁵ Sir H. Hawkins, Kitson v. Playfair, Times, March 26th, 1896. ²⁶ Bentham, Morals and Legislation, p. 172. ²⁷ Lord Mansfield, Duchess of Kingston's case, 20 S. T., p. 573. ²⁸ Jowett: Paul. Ep. II. 394, Casulistry.

SOUTHERN BRANCH: ISLE OF WIGHT DISTRICT.

THIRTY-FIVE YEARS' RETROSPECT IN THE PROFESSION,

INCLUDING SOME EXPERIENCES, CHIEFLY SURGICAL.

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To those of us who from advancing years are unfortunately able to do so, it is interesting to recall some of the conditions under which surgery was practised in the early Sixties, when I entered the profession.

THE DAY OF "LAUDABLE PUS."

In those not very remote days nearly all wounds, including those made by the surgeon, healed with suppuration; indeed terms were in vogue such as "healthy" and "laudable" pus, expressing in a measure the surgeon's approval, and although "healing by first intention" was spoken of, nothing was known or taught by which to attain this desirable end. It was known that wounds of the face commonly healed in this manner, and to the free blood supply of this region was credited such result, which was true in part. What I wish to lay stress upon, is that nothing was taught by which on the surgeon's part the primary healing of wounds could be assured. Surgeons used to wash their hands after an operation, but usually not before, unless they were obviously dirty, and the assistants never troubled to carry out such a process preceding operations. If a wound healed by primary union, it was shown as something out of the common; indeed to my recollection it seemed a sort of freak of Nature. No self-retaining pressure forceps had been invented, so all vessels had to be tied at once in a wound, each being held by one pair of forceps whilst someone else tied it; the delay and inconvenience in a large operation were considerable. The only dressings available were lint, cotton wool, and plaster; the modern packages of well-made dressings, pads, sheets of tissue gauze, etc., had not been thought of.

All ligatures were left long, and to the silks proceeding from the chief arteries one or more knots were tied that they might be recognised; the dozen or so of strands hanging from the stump after operation formed a set of setons which poured forth pus until they separated and came away on gentle traction two and three weeks afterwards. To cut off a ligature close in a wound, and close it in, was quite outside our experience; indeed, we were taught that such would inevitably form an abscess, and work its way out. All wounds were dressed wet, usually with strips of lint wrung out of water, and then covered with oiled silk. Drainage as such, deliberately carried out, was not practised. No systematic washing or bathing of patients admitted to hospital took place; I am not prepared to state that an occasional "cat-lick" sort of a wash was not carried out now and then by some energetic nurse, but this was not the rule, and I well remember when I was quite an advanced student going round with Dr.—now Sir Samuel—Wilks, who clinically descanted upon the curious fact that the patients were never washed, demonstrating the fact to us from a peculiarly nasty pair of dirty legs.

ADMINISTRATION OF ANÆSTHETICS.

Nothing as to this was taught in my time, nor indeed for many years after. The student picked up what he