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THE VALUE OF MEDICOLEGAL SYMPOSIA IN MODERN FORENSIC MEDICINE

Samuel A. Levinson

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The discussion of medicolegal problems and its relation to public health program is not new. When the Medical Examiner's Office replaced the Coroner's Office in Boston in 1887 there was established at the same time the Massachusetts Medicolegal Society. Aside from the discussion of medical phases pertaining to the Medical Examiner's Office which was presented at the stated meetings of this Society, the members of the legal profession and others interested in the civic welfare of the community participated. Apparently, this was a local development and was confined to the City of Boston and its environs. Some of the presentations were published, but the topics of discussion emphasized the necropsy findings during the course of a medicolegal autopsy. Every so often distinguished members of the Boston Bar would participate in the problems which were of mutual interest to both law and medicine. When this Society in 1929 celebrated the first fifty years since its founding, one reads in their transactions the importance of psychiatry and psychiatric management of the accused, the menace of industrial hazards and its relationship to public health and welfare.¹ These progressive analyses did not permeate into the various communities of this country. Apparently, the counties in every state in our nation were more concerned with the basic and, one might add, antiquated functions of a Coroner's Office.

The primary objective of the modern medicolegal symposia is to present current problems of interest to the entire community, although the scientific and legal conduct of these problems at first concerns members of the medical and legal professions. It is of primary importance that there be a meeting of the minds, both lawyers and doctors, in order to study and evaluate these problems before they are released for public consumption. It is not the function of present day discussions in our medicolegal symposia to review again accidental deaths, poisons and the frequency of suicides, the methods used by the suicide, or statistical

analyses of hanging. That is adequately reviewed in various books and monographs dealing with forensic pathology. What may be more important to the general population are the reasons for these increases. Thus, the medicolegal symposia should not be confined entirely to lawyers and doctors for discussion but must embrace the sociologist, the economist, the public spirited citizen, ministers, in short, the entire community. The medicolegal autopsy is not only to reveal information which has a bearing on criminal fact finding procedures but that the community will profit from these observations as it affects public health measures. Hence, the medicolegal symposia must bring out into the open current problems of a dynamic nature not only those of interest to the pathologist but problems affecting the living. This phase of the medicolegal symposia is important when one realizes that at the very inception of the Massachusetts Medicolegal Society in 1877 it not only attracted the outstanding medical minds in Boston but also the foremost members of the Bar including Oliver Wendell Holmes, Jr., and this indicated the importance of far sighted thinking and planning of both professions.

It is obvious that the potential value of meetings of this sort is high. The opportunity to learn by personal experience does not fall to all alike, and caustics carefully selected and well presented are always instructive. Reports of research in the medical sciences or in their related sciences which are exceedingly useful and at times available for use in legal medicine both widen the knowledge and strengthens the hands of him who practices it. Comment on the law in its relation to medicine, and interpretation of the statute governing medicolegal inquiry by Attorney Generals or District Attorneys, or by other representative members of the Bar, from time to time have thrown light on dark places and assisted the pathologist and his associates doing medicolegal necropsies with a clear conception of their duties, their responsibilities, and their rights.² An additional field of usefulness for the organizations presenting the medicolegal problems in a form of a symposium is likewise in the direction of education—the further training of the public to a realizing sense of the value, economic and otherwise of the results of medicolegal inquiry and of the importance of thoroughness and skill in work of this order. From these discussions there may possibly be further fruit of legislative functions. That education is vital is manifested from the observation of John Dewey³ who says, "Education is a constant reorganizing or reconstructing of experience. It has all the time an immediate end, and so far as activity is educative it reaches that end—the direct transformation of the quality of experience."

In our milieu there are experiences which alter our puritanic and codific way of life. One is want to speak authoratively on how the situation

is to be handled but when one is pressed for law or logic to support the statement it is discovered that it is one's emotional or deep-rooted subjective symbolism. This is reflected in our attitude of present day functions, the medicolegal problems. The Coroner's Office supposedly concerns itself with the cause of death, but in reviewing forensic medicine, the Coroner's Office must now be concerned with current factors as causative agents of disease, injury, and death. If the functions of the Coroner's Office is limited by statutory legislation, then forensic science must be the bulwark of educational methods for the general public. We are today active participants in an age of technocracy where there is a continuous procession of chemical and mechanical products which not only in its application but in its process of development becomes a hazard to the public. Must we wait until a conflagration develops before we institute procedures for protection of all concerned, or shall there be periodic examination during the developmental phase and protective measures instituted? If judiciary processes are essential for public protection then the element of time may claim increases in its number of human lives. Indeed the law is the summation of experiences and before it is adopted and established it must withstand the frailties of human weaknesses. That the law is not perfect is attested by the changes, revision, and alterations in society's social structure which affects subsequent legal reasoning. In the technocratic age, experience in the chemical and mechanical development moves rapidly and time moves too rapidly for experience to shape itself as a formative unit. But man is the dominant factor in the genesis and developmental structure of these various units and our entire social structure may be damaged if preventive measures or anticipated warnings are not formulated.

Forensic science, therefore, becomes an integral function in medicolegal planning. In the processing of the isotopes and the development of the atomic bomb careful procedures were established by the various scientists to cover every detail for the entire personnel, and from the available reports, very few of the thousands employed in this undertaking suffered minor or fatal injuries. If this operation was not carefully planned, there may have been serious consequences affecting people and property. Scientists prevented such a conflagration. There is no local or federal law pertaining to this development possibly because of the newer discoveries, or possibly because the law awaits human experiences. When medicine and law unite for public welfare, what a vast amount of good can be accomplished and what a vast and inexpressibly grand opportunity presents itself inviting everyone to penetrate its mysteries and solve the problems of this rapidly changing world.

There was, therefore, a meeting of the minds between the lawyers and doctors to select topics of current interest for discussion. Since sociologists, economists, psychologists, and members of the ministry are consulted by the population with problems that concern them, they must be informed as to the scientific and legal aspects of these questions. In our first symposium⁴ on medicolegal problems we discussed the Medical Witness in Court; Expert Testimony; Artificial Insemination; Medicolegal Implications; The Practice of Pathology and Its Medicolegal Problems; Operations to Produce Sterility; Medicolegal Implications; Trauma and Tumors in Industrial Medicine; Scientific Tests in Evidence; Blood Grouping Tests in Disputed Paternity Cases; Chemical Tests for Intoxication. Operations to produce sterility is performed in our hospitals, and when the surgeon is asked about the legal implications of this problem certain categorical statements are made and certainly not founded on knowledge of the law. Many of the lawyers who are consulted by their clients on this subject also are unaware of the legal and medical implications. The subjects of artificial insemination and operations to produce sterility were discussed at the request of our medical societies and social agencies. Artificial insemination was selected for discussion because of the many requests from soldiers and childless couples seeking medical advice. There is no statutory law guiding the physician and lawyer in the conduct of this problem. Artificial insemination is practiced in this country, and we should be informed as to the legal and/or moral implication involved.

The medical phases and the legal aspects includes, among other things, consent from husband and wife, and the adoption of the offspring according to legal proceedings. We see, therefore, that current problems are of interest to all people, and they look to the physician and lawyer for guidance. When this is not given with any authoritative manner, the populace assumes an attitude which may be compatible with a speech of lawlessness. The revolt against this lack of authority which is reflected by crime waves implies a deeper understanding of moral psychology. The phrase that "the laws were made for man and not man for the laws" must be reexamined at frequent intervals, for if the philosophy of the law ignores the study of human nature and attempts to conform man to law rather than law to man, then its development is a very partial and imperfect one. And thus we see that the topics reviewed in the first symposium on medicolegal problems, an effort to review existing laws and their interpretation to our present way of living was discussed; and to anticipate a pattern of law as a guidance for those who seek counsel on these subjects.

The second symposium⁵ on medicolegal problems discussed the ques-

tion of the Human Skeleton in Legal Medicine; Psychiatry and the Civil Law; Psychiatry and the Criminal Law; Federal Control of Drugs and Cosmetics; and Radiation Hazards and Health Protection in Radioactive Research. Surely here is a series of topics that warrants the reexamination of the law as applied to medicine. In the discussion on Psychiatry and the Civil Law, and Psychiatry and the Criminal Law, the psychologist was concerned with the reasons for these social behaviors and what can be recommended to the jurist as a guide in the application of legal procedures. We cannot have a fixed formula for the conduct of our ever changing social behavior. As Justice Holmes⁶ rightly stated, "We do not realize how large a part of our law is open to reconsideration upon a slight change in the habit of the public mind." The oft quoted dictum of Justice Holmes that "The life of the law has not been logic, it has been experience" is exemplified by contemporary thinking in law that the basic pattern of legal reasoning is reasoning by example.⁷

In our third series of medicolegal problems⁸ we discussed Mental and Chronological Age Problems in Law and Medicine; Sex Offenses and Sex Offenders; Modern Methods of Crime Detection; Truth Serum and the Lie Detector; Income Tax Discrimination Against the Professions; the Problem of Alcoholism; Medical and Industrial Aspects; and How Can the Constitutional Office of Coroner Serve Modern Needs. We had a scientist and a member of the Bar, each an authority in his particular field, present the medical and legal phases of these problems at each of the meetings. A question period followed, and there was brought out into the open for discussion such aspects of the problem that was of interest to the sociologist and the psychologist, among others, who because of the scientific, legal, and moral interest of these problems, warranted an interpretation and explanation.

We need courage to meet the demands made upon us and true courage is based upon knowledge. When we know, we may confidently assert. This concept is further developed in an article which appeared in the *Journal of the American Medical Association*.⁹ "There has been and is a lack of interest on the part of officials, physicians, and lawyers in building up the various departments of forensic medicine, which consequently falls far short of its present social value. A few textbooks on forensic medicine have been published, it is true, but in other aspects the contributions to the subject are scanty and scattered, and show, with notable exceptions, little evidence of fruitful research. In the medical schools the formal teaching in this field is perfunctory and, as a rule, wholly didactic; as yet no effort has been made in any of our universities to coordinate and develop actively the medicolegal instruction in their

schools of law and medicine. Finally, this indictment may be closed by emphasizing that the provisions for the work in medicolegal practice, in the larger sense, are everywhere utterly inadequate. There is, in this whole country, not a single fully equipped and adequately manned medicolegal institute. Medicolegal problems are not, however, diminishing in number or in importance, and there is increasing need for better and better medicolegal work and for a more active development of forensic medicine in the United States."

Since such a method of education is, as a rule, lacking in our schools of medicine and law, and the physician does not receive any instruction at the graduate level, it becomes the function of organized groups in law and medicine to foster reviews and discussions of contemporary interest in forensic medicine. The effectiveness of medicolegal symposia as herein outlined is obvious to both the legal and medical professions. It is through this medium that we can review and reexamine the various facets that show itself in our everyday life. We must not wait until a legislation is adopted and suddenly foisted on the public at large without those better informed having had an opportunity to analyze these problems. Hence the legal and medical profession by reviewing contemporary problems in the field of forensic medicine may guide the law making bodies in recommending statutory laws. Certainly from these discussions may also develop methods of modernizing the antiquated office of Coroner and help further improve the more modern office of the Medical Examiner. At all events society at large will be the beneficiary of these discussions.

To establish these means we must follow the pattern of education first through the medium of the medical and legal professions, and later, the public at large, in the problems of contemporary living. "The art of education," according to John Dewey,¹⁰ "is one in which every person is compelled whether he will or not to take an interest, because it so intimately concerns his own conduct." Attention should be directed to the remark made by Alexander Hamilton that instead of awaiting an event to know what measures to take, we should make measures to bring the event to pass. Thus, by the system of education through the medium of medicolegal symposia we not only review the findings of a medicolegal autopsy and its application to crime, but also problems in the field of forensic medicine that concerns every living person. It is a duty that we owe to society to educate ourselves and become acquainted with the hazards of our everyday life. To avoid the particular pitfalls and serious complications, and by preventive measures safeguard the health of mankind. If by these medicolegal symposia we formulated a pattern of procedures based on knowledge and experience guided by logic and

vision, we may then recommend a legal formula according to our way of life. Thus, we see the wisdom in the statement of Solomon, "Where there is no vision, the people perish, but he that keepeth the law, happy is he."

In closing it is well to refer to a statement by Justice Cardozo,¹¹ "Some of the errors of courts have their origin in imperfect knowledge of the economic and social consequences of a decision, or of the economic and social needs to which a decision will respond. In the complexities of modern life there is constantly increasing need for resort by the judges to some fact-finding agency which will substitute exact knowledge of factual conditions for conjecture and impression. A study of the opinions of Mr. Justice Brandeis will prove an impressive lesson in the capacity of the law to refresh itself from extrinsic sources and thus vitalize its growth. His opinions are replete with references to "the contemporary conditions, social, industrial, and political, of the community affected."

In this short space the influences of these medicolegal symposia on public health and moral welfare may not have been stressed for it is beyond the limitation of this report. If the writer has given any food for thought, he shall feel that our work has served its objective. It is hoped that other areas in this country will participate in the cooperative effort of law and medicine with its allied and affiliate branches in our social structure, to meet at stated intervals to discuss problems of interest to the entire community, and for the welfare of all people. This can be accomplished by education, and as Dewey¹² has rightfully stated, "The building up of social science, that is, of a body of knowledge in which facts are ascertained in their significant relations is dependent upon putting social planning into effect."

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