

Bell (Clark)

INAUGURAL ADDRESS

OF

CLARK BELL, ESQ.,

AS PRESIDENT

OF THE

MEDICO-LEGAL SOCIETY,

OF THE

CITY OF NEW YORK.

DELIVERED NOVEMBER 14th, 1872.

طبع في مطبعة

HENRY E. THOMSON & CO.,

142 FULTON STREET,
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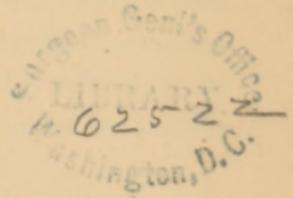
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GENTLEMEN OF THE MEDICO-LEGAL SOCIETY :

I accept the trust you have so unexpectedly and so flatteringly conferred upon me, with no little reluctance, and with real concern, through a fear which I trust is not an unworthy one, that I shall not be able, in the administration of its duties, to realize for you, what you have the right to expect, and what the well-being, and the future, of a society capable of so much usefulness ought reasonably to demand.

I feel that it is not a mere question of intentions, for I am full of good ones for your prosperity and well-being; but I cannot well see my way clear to devote that time, that skill, and that perseverance, to the discharge of its duties, which has distinguished the labors of my predecessor, and made your Society under his skillful leadership a success, and a credit to you all.

Medical Jurisprudence was my delight, in earlier studies, and it is a branch of the legal profession full of interest, and one that will repay the student for all the labor he gives it, while to the medical profession, it bears a much more important and intimate relation.

Few lawyers are brought, except rarely, in direct contact with the leading points involved in medico-legal questions, while the successful practitioner of medicine encounters more frequently, and on every hand, the questions which its study raises.

This is doubtless one reason why the past history of your

Society has been in so large a measure, the fruit of the labors of medical men among you; but it is still quite true, that your Society opens a rich field for the lawyer and legal student of medical jurisprudence, and has, doubtless, awakened in certain circles among you a desire to enlist among us more talent and members from the bar of the city of New York.

It has seemed to me that that large class of cases involved in the application, and practical workings of Life Insurance, was a subject to which it would be of service to call the more marked attention of our Society, especially of its legal members, and those physicians who have made Life Assurance a specialty, and with this in view, I shall hope to interest new talent to enrich our future meetings upon this most interesting branch of study.

The Criminal Jurisprudence of the country is not the only source to which we may laudably look for our most interesting cases.

The increased and extended principles involved in many questions in our Probate Courts, and in many of our commercial cases, even, have reasonably awakened deep interest among lawyers, and I shall deem it my duty, and esteem it a pleasure and a privilege, to endeavor to awaken among leading members of the bar an interest in our Society, in which, I trust, I shall have the co-operation, not only of my legal brethren among you, but also of the medical men who can each and all, without much effort, materially aid such a movement by personal effort and intercession.

Medical Jurisprudence, as a distinct branch of the science of the law, is, and has been for years, taught to the critical and analytical law student; and the lawyer would be esteemed imperfectly educated in his profession, who had not mastered at least its elementary principles. Indeed, few, if any, of our well-read lawyers could be found who had not devoted considerable time and study to this important branch of a thorough and complete legal education. Now, while this is a truism among lawyers, is it equally true that the teachers of medical knowledge have devoted the space and time in expounding

the science of medical jurisprudence to medical students, especially in its legal aspects, that the actual necessities of the case have demanded? I have long felt that there was no more reason why the lawyer should be versed in the medical part of medical jurisprudence, than that the physician should be in the legal part of the same study.

Am I right in fearing that the physicians of the age, as a class, are left, when they receive their degrees, by their Professors, with but a very limited knowledge of those branches of the law with which they are of necessity to come into immediate contact?

Is there any reason why the medical gentleman should not be versed in all the elementary legal principles involved in the questions which he is called upon to investigate?

How much wider and broader is the vision and judgment of the medical expert, who considers the questions of the hour, in their legal as well as medical aspects, as the well trained lawyer does? I would advise the medical expert who proposed to make medical jurisprudence a prominent part of his practice, to study it from its foundations, elementarily, and in its legal as well as its medical phases.

I would have him thoroughly versed in all the statute law of the State bearing especially on that large class of cases in which physicians are so frequently called upon to decide and to act, and I am quite certain that a Chair of Medical Jurisprudence in a medical college, filled by a lawyer of culture and study, would add largely to the acquisitions medical gentlemen need and ought to have who commence, in such a city as New York, the practice of a noble profession with a laudable ambition to win and deserve distinction. While I do not think it would be proper on such an occasion as the present, to occupy your time, from the more important duties of the evening, with extended remarks, it may not be out of place to briefly advert to the origin, mission, and successes, of your Society. It is but six years since its inception, and but a little more than four since its

incorporation under the laws of the State; still, this Society has so industriously pursued the purposes of its founders, that I think I may take the liberty of saying in its behalf, that it has already attained distinction, both in our own country and abroad.

Prominent among the various purposes for which this Society was organized, beyond the advancement among its members of that skill, knowledge, and preparation which should qualify them to act wisely, usefully, and intelligently as experts in the exciting cases and questions of the day, was, doubtless, the idea of concentrating and crystalizing the highest talent of the land, where, under an organization, it might make its influence felt not only upon exciting public trials, but in urging and pressing important reforms in existing laws, and in awakening public sentiment to the public needs, as to such legislation and reforms.

The founders of this body were men who thought and felt deeply on the mission of such a society, and of the broad field of usefulness it ought to occupy.

It is a source of just pride and pleasure that I can ask you to allow me to call your attention to the very important part taken by this Society in the advocacy and final passage of the law, now upon the statute books of the State, in regard to the punishment of abortion. This praiseworthy and beneficent result is due to the general public sentiment awakened, aroused, and educated upon this most important subject, by the discussions originated by your Society, and conducted to such favorable issues under its direct leadership and supervision.

That principle, announced with so much force and courage by my predecessor, in relation to the alleged use of chloroform in cases of robbery, &c., although at first blush it might have seemed to be contrary to the commonly received opinion of the public, and perhaps of the major part of the professions of both law and medicine, has, through the able, scientific, and masterly manner of its examination and discussion by distinguished members of your Society,

come to be received as a settled and fixed principle in this country, and, so far as my experience and observation is concerned, is accepted as such in criminal trials.

That admirable paper of Professor Peet, which called attention to the criminal responsibility and condition of the uneducated deaf mute, was forcibly presented by a Committee of your Society to the Legislature of this State, but at so late a day in the Session (after having passed the Assembly), as to fail of final passage in the Senate for mere want of time; but notwithstanding this, the public attention was so far awakened to the wants and needs of this hitherto actually unforgotten class of unfortunates, that there is now no manner of doubt that the bill proposed by your Society will become a law during the ensuing winter.

Perhaps there is no recent instance that more forcibly illustrates the position actually occupied by this Society towards the public, and the broad field of usefulness opened for its labors, than the case of Dr. Paul Shoeppe, of Carlisle, Pa., indicted and convicted of murder in the first degree, on a charge of poisoning Maria M. Stennecke. The published testimony of the first trial awakened a profound interest throughout this country, and even in Europe, especially in medico-legal circles, and the case coming before your Society, was referred to a very able Committee of your number, who gave to the whole subject a most thorough and exhaustive examination.

Your Committee ultimately made a report which, in a masterly manner, analyzed both the evidence and the rulings and decisions of the Court, and left little doubt among experts everywhere, as to the innocence of the accused. This able report found its way into the public press, first appearing in the "Medical Gazette" of this city, in the summer of 1869, and aroused a discussion upon the merits of this case that was by no means confined to this country. Upon the second trial the accused was acquitted, and the justice of that verdict is now substantially acquiesced in by all experts.

The influence of your Society in this praiseworthy and beneficent result, is perhaps best illustrated by the testimony of one of the leading counsel in that case, who, writing to the President of your Society, near the end of last September, says :

“But I must confess that, if it had not been for the thorough examination which your Society gave to the evidence in the first trial (rousing, as it did, all the medico-legal societies in this country, and many medical jurists in Germany), the preparation for the second trial would have been vastly more difficult.”

The presiding Judge at that interesting trial has written your President, complimenting this body for what he styles, “the exhaustive report of your Society, upon which I drew so largely in the discharge of my official duties in that case.”

John J. Reese, Professor of Medical Jurisprudence and Toxicology in the University of Pennsylvania, recently says to our officers in relation to this case, in a most interesting letter, that—

“The New York Medico-Legal Society was the first to utter a protest against that outrage. I think we all must feel gratified at the result of the second trial,” etc., etc.

One of the noblest aims of the Society, outside of its usefulness in public fields of duty, and as regards its own members, is, doubtless, to elevate the standard of careful, thorough and analytical study among experts in medico-legal cases.

Much of the criticism urged against the apparent conflict of medical testimony in important and exciting criminal trials, has been, perhaps, due to a want of a high standard of education and attainment by the medical witness upon the given case.

Before a witness should be called fully competent to testify as an expert in a cause, he should be critically and minutely master, in all its details, of the subject upon which he testifies.

It is often urged that the apparent irreconcilability of medical testimony, is sometimes due to the peculiar course taken by counsel in examining the witness. It is more frequently due, in my experi-

ence and judgment, to an actual want of a thorough and complete knowledge, on the part of the witness, of the subject under consideration.

This Society should strive to so elevate the standard of excellence among experts, as to arrive, in important legal trials, at the results which science demands, with absolute precision, so far as is possible. Too much attention and prominence cannot be given on your part, to the precise, minute, and scientific training of medical experts, who shall confessedly be thoroughly and well versed in that careful and practical knowledge, necessary and essential to the intelligent and reliable examination of the issues presented in a given case.

There will be fewer cases when "Doctors disagree," according to the old adage, if the witnesses are not M. D's simply, but if they are thorough, profound, and fully competent medical experts; and a long stride will be made in the progress of the work of increasing, both the certainty, usefulness and public confidence in medico-legal testimony in important criminal trials, where the witnesses shall be only those who have most thoroughly mastered the subjects, and are best qualified to be heard upon the question involved.

To deal with all existing and arising cases involving scientific medico-legal examination or research, is the natural and legitimate mission of this body, and it is the duty, and should be the aim of every member to bring before it every important case or question, as it arises, which would be confessedly worthy of its examination and attention. In a body containing upon its roll of members so much of decided and pronounced talent from both the learned professions, organized in the chief city and metropolis of this country, we should not be worthy of the great trust committed to us, if we failed to make the result of the labors and deliberations of this organization take front rank among kindred societies, both in this country and in Europe.

We may laudibly, besides these varied fields of labor and useful-

ness, so essentially and particularly within our province, aim to awaken in both professions concerned in our work, increased interest in and attention to the science of medical jurisprudence; and broaden and widen our field of labor by enlarging the members of our body, thus increasing our strength and ability to accomplish good and enlarge the area of our usefulness upon and among ourselves.

It has occurred to me that this Society might lay the foundations, the present season, for one of the most complete libraries upon Medical Jurisprudence extant. The prominent law libraries of the city are singularly wanting in what may be said fairly to be necessary and accessible, volumes on this subject. Exclusive of pamphlets, about one thousand volumes, as near as I am able to learn, are now published in this country and in Europe upon this interesting branch, and no gentleman of either of the professions can well afford to give so much space upon his shelves for all these volumes, while those having our larger public libraries in charge seem not disposed to make this branch so complete and comprehensive as we should all wish to see it.

The moderate sum of two thousand five hundred dollars would probably establish such a library upon a firm, permanent, and enduring basis, if a suitable location could be found for it, and I have no doubt the managers of the Mott Memorial Library would cheerfully furnish it a home.

I shall esteem my connection with the management of your Society peculiarly fortunate if it shall result in perfecting the initiatory steps for such a library, and I should feel great pleasure in co-operating with you in so laudable an undertaking. I have great confidence that success would certainly attend a well-directed and strongly urged effort on the part of this Society for this object, if addressed to the foremost men of the two professions most interested in such a library, to raise a suitable amount to make its future certain and assured.

Indeed, if the Society should adopt a general resolve, by universal consent, to make it the duty of every member each year to contribute at least one volume to the library, of which the Society had not already a copy, it would be such a beginning as would certainly result, in the near future, in a library that would be the pride and boast, not alone of the Society, but of the city of New York.

I cannot feel justified, gentlemen, in trespassing farther upon your time or indulgence on the present occasion. I shall endeavor to bring to the discharge of the duties of this place such talent as I have, and shall strive to increase and widen the influence and usefulness of this Society by all laudable and honorable means. I shall ask from you that indulgence and charity for all my mistakes and shortcomings which my inexperience in such a position make me conscious of needing; and I trust that we may, as a Society, continue to improve and advance in the future as we have in the past, and that the Medico-Legal of the City of New York may win and deserve that prominence and place which the most sanguine of her founders desired and intended.

New York, Nov. 14, 1872.

