

A COURT OF MEDICINE AND SURGERY.

BY A. B. CHOATE.

The remark is frequently made, "A doctor buries his mistakes in the grave and no one is the wiser;" or as someone has put it, "Physicians of all men are most happy: whatever good success soever they have, the world proclaims it; what faults they commit, the earth covers them." No doubt there is some truth in this, — how much doctors only know.

The difference in this respect between the practice of law and that of medicine and surgery is very marked. In the practice of law the client's case is formally stated by his attorney in writing; this statement is filed in court and becomes a public record. Corresponding to this formal, written, public record is the doctor's diagnosis, frequently nothing more than a mental conclusion, without even the publicity of spoken words. In a lawsuit there is an opposing attorney who writes out and files his diagnosis of the same cause, in which he takes issue with his opponent on one or more of the most vital points in the case, and represents it to be a case materially differing from that stated by his opponent, demanding entirely different treatment.

In medicine there is nothing of this kind whatever. As a rule, no other doctor is allowed to see the patient or know anything whatever about his condition or treatment. It is a serious breach of professional etiquette for another physician to attempt to know or say anything adverse concerning a brother physician's treatment of the case, even if certain that there has been a mistake in diagnosis and treatment which will cost the patient his life. If the physician first called can retain the confidence of the patient, or of his friends in case the patient succumbs, he conducts the case in strictest privacy to the end. Whether that end be the grave or a prolonged life of misery, not a breath of adverse criticism by any other physician is tolerated. No opportunity for intelligent criticism of a physician's or surgeon's work is furnished. Is it any wonder that different schools of medicine succeed equally well although proceeding upon diametrically opposite theories?

The jealousy with which a patient is protected from interference by more than one doctor at a time suggests the truth of the following :

See, one physician like a sculler plies,
The patient lingers and by inches dies ;
But two physicians, like a pair of oars,
Waft him more swiftly to the Stygian shores.

Quite likely such would be the result if two physicians were allowed to squabble over the same patient unrestrained ; but all this is different in law. Opposing counsel come into an open court, presided over by one especially learned in the law and competent to give intelligent criticism, and there in the light of public criticism each endeavors to sustain the position he has taken ; each seeks to expose a flaw in the work of the other ; nothing is hidden or covered up ; whether it be an error in the diagnosis or subsequent treatment of the case, it is held up to public view. An intellectual battle between the opposing counsel is conducted with weapons consisting of the keenest wit, the most biting sarcasm, and the soundest logic. After hearing both sides the judge decides the various points discussed, and in so doing sometimes takes occasion to censure one of the attorneys for his ignorance or negligence, and terminates the case by requiring the defeated client to pay to the successful one an arbitrary sum of money in addition to all his costs and disbursements as partial compensation for being wrongfully brought into court. The vanquished attorney may then leave the court room in disgrace, fortunate if his fertile brain is sufficient to the task of squaring himself with his client who has been a witness to the whole proceeding.

At first thought, the freedom of physicians and surgeons from this severe criticism seems an advantage on the theory of O'Reilly, — "Be silent and safe ; silence never betrays you." But is it not, in fact, a great disadvantage to the really efficient practitioner ? Does not this freedom from just and intelligent criticism have the effect of placing the quack and the pretentious ignoramus on a level with the conscientious and scientific practitioner ?

But what is of much greater importance, is it not due to the public that some means should be furnished whereby the physician of real merit, as well as the quack and pretender, may be known ? Is it to the best interest of the sick and suffering that they should be imposed upon, and the

results of ignorance or carelessness be allowed to bear fruit in death or a miserable existence, while the ignoramuses who work the imposition are permitted to continue their depredations in the name of science, under the cover of secrecy? Is it best that the only verdict to be pronounced in case of death caused by an ignorant blunderer shall be the libellous one, "God touched him and he slept"? Such a verdict is either a libel on God or an undue laudation of a blundering quack. To the layman this seems unjust, not only to the physician and surgeon of real merit, but also to the general public.

Why should there not be a court of medicine and surgery similar to a court of law? Of course the general practice of medicine could not be done in any public manner; but why should not all hospital work, or at least all clinics, be conducted in a manner similar to the trial of a lawsuit? Why should not every hospital and medical college be established under state license and state regulation, as such institutions now are in nearly all parts of Europe? Then establish the office of clinical judge. Employ a competent physician and surgeon to fill the office and preside at each hospital at the expense of the state. Create the office also of state physician. When a case is brought to the hospital or prepared for a clinic, require the physician in charge of the patient, as well as the state physician, to file with the clinical judge a written diagnosis of the case. Make it the duty of the state's physician to know and make a record of every step taken in the treatment of the case, together with his criticism of the manner in which it is conducted. In no case should the state's physician interfere in the least with the management of a case or of a clinical operation, except to call upon the clinical judge to prevent any error likely to result in death to the patient; the judge's decision should be final, and absolutely control without delay or argument. At stated periods have a calendar made up of discharged cases, which should be indicated by number only, and in the presence of all who desire to attend have each case thoroughly discussed by the state's physician first presenting his criticisms, and the physician or surgeon who operated the case defending his work, the clinical judge to decide all points of disagreement between them and make a record of his decision.

Do as adversaries do in law —
Strive mightily, but eat and drink as friends.

One of the chief advantages of such a court would consist in making clinical work more effectual for students. Clinical operators would not be able to play to the galleries so freely as they do now. Some superficial impostors would, of course, have their business ruined, and opportunities would be less for quacks to pose before the public as competent physicians and surgeons by reason of having their names on hospital staffs and as one of the faculty of a university or college, while no careful, conscientious, efficient physician or surgeon would have anything to fear.

It has been proposed to promote some legislation along these lines at the meeting of the legislature of Minnesota this winter, and this paper is written for the purpose of calling out discussion and fair criticism of the plan. Many details of the above proposed plan have not been touched upon, which would be necessary to avoid minor objections that will arise; but since the writer is not a physician or surgeon, it is quite probable that some serious difficulties have been overlooked that will arise in the minds of physicians. Of course nothing but condemnation and opposition can be expected from every empiric and impostor in the country; but the animus which prompts their opposition will be generally recognized and their opposition discounted accordingly. Just criticism from competent professional men, as well as laymen, will be received with pleasure.