LEGAL HISTORY OF MEDICAL QUACKERY

MANSLAUGHTER. CHRISTIAN SCIENCE AND THE LAW.

Substance of an Interesting Paper Recently Contributed to the Medical Record by William A. Purrington, Esq., a Member of the New York Bar.

The ordinary quack is content to lay claim to some special skill or knowledge in the use of natural methods or remedies. Thus in February, 1806, one John M. Crous induced the same legislature of New York that in the following April chartered the existing county and state medical societies to authorize by special act the purchase for $1,000 and publication in the state papers by his "perfect and infallible remedy and cure for the hydrophobia or canine madness." And a wonderful remedy it was. Here is the prescription, and it certainly seems adequate to put an end to hydrophobia or any other malady:

"First: Take one ounce of the jawbone of a dog, burned and pulverized, or pounded to fine dust.

"Secondly: Take the false tongue of a newly foaled colt; let that be also dried and pulverized and.

"Thirdly: Take one scruple of verdigris, which is raised on the surface of old copper by lying in the moist earth; the coppers of George I. or II. are the purest and best. Mix these ingredients together, and if the person be an adult or full grown, take one common teaspoonful a day, and so in proportion for a child according to its age. In one hour after take the fillings of the one-half a copper of the above kind, if to be had; if not, then a small increased quantity of any baser metal of the kind; this to be taken in a small quantity of water.

"The next morning, fasting (or before eating), repeat the same as before. This, if compiled with after the biting of a dog, and before the symptoms of madness, will effectually prevent any appearance of disorder; but after the symptoms shall appear a physician must immediately be applied to, to administer the following, viz.

"Three drachms of the verdigris of the kind before mentioned, mixed with half an ounce of calomel, to be taken at one dose. This quantity the physician need not fear to administer, as the reaction of the venom will then diffuse through the whole system of the patient, neutralize considerably the powerful quality of the medicine; and

"Second If in four hours thereafter the patient is not completely relieved, administer four grains of pure opium or one hundred and twenty drops of liquid laudanum.

"N. B.—The patient must be careful to avoid the use of milk for several days after taking any of the foregoing medicine. John M. Crous."

In the following year an act (ch. 161, P. 1807) passed prohibiting unlicensed practice of medicine with the proviso, however, that it should not be construed to debar any one from using, or applying for the benefit of the sick, roots or herbs the growth or product of the United States. This exception favored at once the principle of protection to the industry of home herbs and the teachings of the Thomsonian or botanic school of medicine, founded upon the simple, obvious theory that mineral remedies are injurious because their nature being to remain in the earth, they tend to drag man down to the grave; while herbs, having by nature an upward, skyward thrust, tend, on the contrary, to the advancement of those into whose midst they penetrate.

AN EARLY CASE.

This system, once as popular as Christian science, furnished the leading American case on manslaughter by medical malpractice, that of Commonwealth v. Thomson (6 Miss. 134). It there appeared that Samuel Thomson, founder of the system, undertook to cure "all fevers, whether black, gray, green or yellow." His staple remedies were "coffee," so-called, "well my grist," and "ram-cats." Being summoned on January 2, 1809, to attend Ezra Lovett, ill of "a cold," he ordered a fire built, put Lovett's feet on a stove of hot coals, wrapped him in a blanket, and, with a powder given in water, "puked" him—to use the simple language of the day—violently thrice within half an hour, meantime admiring copiously the warm "coffee." He then put Lovett to bed, and sweated and "puked" him pretty steadily for three days, the patient growing weaker and weaker, until, poor soul! he could puke no more. Then Thomson asked "how far down the medicine had got," and, Lovett indicating his chest, the quack said that the medicine "would soon get down and unscrew his navel." On the third day the patient "lost his mind and went into convulsions," which condition lasted until the eighth day, January 16th, when he died.

"The coffee proved to be a decoction of marshrosemary and the bark of the bayberry bush; the powder was Indian tobacco or Lobelia inflata. There was no evidence that defendant had killed any one else; on the contrary, there was testimony of benefit in one case from his treatment. The court therefore, did not put him to his defence; but, ruling that the commonwealth had failed to make out a case even of manslaughter, charged the jury to this effect: Deceased, beyond reasonable doubt, lost his life by defendant's unskilful treatment. But there could be no murder, unless the prisoner was willfully regardless of his social duty and determined on mischief, of which there was no proof; on the contrary his intent was to cure. Neither could there be manslaughter; for, although defendant's ignorance was very apparent, nevertheless, if he honestly intended to cure, he could not be guilty of that crime on account of death unexpectedly ensuing from his treatment, unless he was engaged in an unlawful act, and there was no law in Massachusetts forbidding any man, honestly intending to cure, from prescribing for a sick man with the latter's consent.

THE LAW LAID DOWN.

The court cited Lord Hale an authority for the proposition that "if a physician, whether licensed or not, gives a person a potion, without any intent of dong him any bodily hurt, but with intent to cure or prevent a disease, and, contrary to the expectation of the physician, it kills him, he is not guilty of murder or manslaughter;" and, accordingly, laid down this law for the case:

"The death of a man, killed by voluntarily following a medical prescription, cannot be adjudged a felony in the party prescribing, unless he, however ignorant of medical science in general, had so much knowledge or probable information of the fatal tendency of the prescription that it may be reasonably presumed by the jury to be the effect of obstinate, willful rashness, at the least, and not of an honest intention and expectation to cure."

The court further said that if the solicitor-general had proved, as he promised to do in his opening, that Thomson had killed others by his treatment, it would have been left to the jury to say whether on the whole evidence they would sustain the charge of manslaughter; which they might justly have done if they had found that defendant acted from "obstinate rashness and foolhardy presumption, although without intent to do Lovett bodily harm;" "for it would not have been lawful for him again to administer a medicine of which he had fatal experience." Upon this reasoning Thomson was acquitted; and his case having proved, as a precedent, a strong shield for manslaughtering charlatans, by establishing what has been called the humane American rule as contrasted with the strict rule of common law, it is well to state succinctly the reasons why he escaped conviction, viz.: (1) because there was no statute in Massachusetts prohibiting medical practice by the ignorant and unlicensed; (2) because there was no proof that Thomson (a) knew his treatment to be dangerous or (b) had any other intent than to cure in good faith.

ANOTHER CASE.

In 1842 the question arose in New York, upon an application for a bill of discovery, in March vs. Davidson (9 Paige 580), whether it was slanderous to have said of the complainant that he was guilty of malpractise as a cancer doctor and had killed a woman in Schoharie. Davison not being licensed to practise, the court held that—inasmuch as he might be guilty of manslaughter, for that reason, if the patient died under his treatment—the words might be slanderous.

It thus appears that—even accepting the benign rule of Thomson's case, which, as we shall see presently, was ill stated—wherever a statute makes the unlicensed practice of medicine a misdemeanor, if death result from the treatment of a non-licentiate he is guilty of manslaughter at least, no matter how honest his intent. This is the rule of common law and of the New York penal code, which defines as manslaughter the killing of one human being by the act, procurement, or omission of another, without design to effect death, by a person engaged in committing or attempting to commit a misdemeanor affecting the person or property either of the person killed or of another.

In 1844 the case of Rice vs. The State (8 Mo. 561) was decided in Missouri. Rice, a Thomsonian, undertook by the same methods used on Lovett to cure Mrs. Keithley of sciatica. She had not been so well for years as when he began to treat her, and was within six weeks of giving birth to her fourth child. Under his system she fell into premature labor and died within about ten days. He was convicted of manslaughter; but the appellate court, adopting the rule in Thomson's case, the facts being substantially the same, reversed the judgment.

AN IOWA CASE.

In 1881 another case arose, in Iowa, State vs. Schulz (55 Ia. 628). Schulz treated a sick woman by acupuncture and an irritating oil, according to the system of Herr Baunscheidt, who, having been much benefited by the bitings of small insects, sought to give the world, for a consideration, a simulacrum of his experience. Defendant admitted that he did not know the composition of the oil, that being Baunschedit's secret. The patient died. Schulz claimed that if he had not been interfered with he could have helped her, and produced twenty-three witnesses to testify that Baunscheidtismus, as administered by him, had benefited them. Schulz was convicted, but the appellate court reversed the judgment, following the cases of Thomson and Rice, and expressed this conclusion: "The interests of society will be subserved by holding a physician civilly liable in damages for the consequences of his ignorance, without imposing upon him criminal liabilities when he acts with good motives and honest intentions." The adoption of this theory by the New York statute of 1844 enabled quackery, in the words of Beardesley J., to "boast its triumphant and complete establishment by law" (Bailey vs. Mogg, 4 Den. 60). And the people of Iowa, instead of adhering to it, have passed, since the Schulz case, a law forbidding medical practice to the unlicensed.

REVERSAL.

Notwithstanding these acceptances of the rule in Thomson's case by other jurisdictions as sound law, the supreme court of Massachusetts, wherein it originated, has since held, in Commonwealth vs. Pierce (138 Mass. 165, A. D. 1884), that the accuracy of its report was doubtful and its law open to criticism. The facts in Pierce's case were these: Defendant held himself out as a physician. There was no more law in Massachusetts to prevent him from so doing in 1884 than there had been to prevent Thomson's like pretension in 1809. Being called to a sick woman, he caused her, she consenting, to be kept for some three days swathed in flannel underclothing, saturated with kerosene. Under this treatment she died in great misery. There was evidence in the case that in some instances similar treatment by defendant had resulted favorably, but also that in one it had burned and blistered the flesh, as in the case of deceased. Defendant's counsel at trial asked the court to charge, following the rule in Thomson's case, that defendant could not be convicted unless it were proven beyond reasonable doubt that death resulted from his treatment and that he had such knowledge or probable information of the fatal tendency of his prescription as to justify the jury in presuming that death was the effect of his obstinate or willful recklessness, and not of an honest intent and expectation to cure. This request was refused, defendant was convicted, and his conviction affirmed by the appellate court, who, by Holmes J., said that the language of Thomson's case relied upon by defendant—viz., that "to constitute manslaughter the killing must have been a consequence of some unlawful act. Now there is no law which prohibits any man from prescribing for a sick person, with his consent, if he honestly intends to cure him by his prescription"—was ambiguous and wrong, if it meant "that the killing must be the consequence of an act which is unlawful for independent reasons apart from its likelihood to kill." "Such," continued the court, "may once have been the law; but for a long time it has been just as fully, and latterly, we may add, much more willingly, recognized that a man may commit murder or manslaughter by doing otherwise lawful acts recklessly, as that he may by doing acts unlawful for independent reasons, from which death accidentally ensues." Thomson's case, it was said, did not intend to lay down new law, but cited and meant to follow Lord Hale, whom it had taken too literally, since his lordship admitted that other persons might make themselves liable by reckless conduct (1 P. C. 472) and why not a physician as well?

THE TRUE STANDARD.

As to what constitutes criminal recklessness substantially that the standard is not gauged by the actor's belief or idea of danger, but by common experience. If the thing done "is generally supposed to be universally harmless and only a specialist would foresee that in a given case it would do damage, a person who did not foresee it and who had no warning would not be held liable for the harm. * * * The use of the thing must be dangerous according to common experience, at least to the extent that there is a manifest and appreciable chance of harm from what is done, in view either of the actor's knowledge or of his conscious ignorance. * * * Common experience is necessary to the man of ordinary prudence, and a man who assumes to act as the defendant did must have it at his peril. * * * The defendant knew he was using kerosene. The jury have found that it was applied as the result of foolhardy presumption or gross negligence, and that is enough. * * * Indeed, if the defendant had known the fatal tendency of the prescription, he would have been perilously near the line of murder." The rule laid down in this carefully reasoned case must commend itself to prudent men; for it really amounts only to this—that if one unversed and unskilled in medical science and practice undertakes, nevertheless, the cure of a patient, and in so doing uses remedies or adopts a treatment—whether positive or negative ought to make no difference—from which there is a manifest and appreciable chance of harm according to common experience, he shall be held liable for his recklessness and shall not be excused by the innocence of his intention. And certainly when part of the treatment adopted is the exclusion of proper treatment, this is just as harmful as if positively injurious methods were adopted. It is just as much homicide to cause death by starvation by keeping food from the victim, as to use an active poison.

CHRISTIAN SCIENCE.

How does this principle apply to "Christian science," "faith cure," or any eccentric treatment of the sick that by operating strongly on the mind may restore the lost equilibrium? Is the pursuit of any of these methods "practice of medicine?"

While the ordinary quack, who, as has been said, pretends only to extraordinary human skill or knowledge, is, therefore, generally held to be a practitioner of medicine, Christian scientists, who go further and pretend to procure for hire divine intervention by their prayers, contend that in thus offering to heal the sick, although for hire, they are not practicing medicine, but observing religious rites, and are therefore protected in their practices by constitutional safeguards. We are thus brought to consider what is the "practice of medicine." The answer to this query must depend in most instances upon the words of the statute and the peculiar circumstances of the case. In the New York case of Smith v. Lane (24 Hun, 632, A. D. 1881), plaintiff, apparently a masseur, sued for agreed fees which defendant refused to pay on the ground that plaintiff, not being licensed to practice medicine, could not recover compensation for his treatment, which, as the opinion of the court recites, "consisted entirely of manipulation with the hand. It was performed by rubbing, kneading, and pressure." The court said:

DEFINITIVE.

"The practice of medicine is a pursuit very generally known and understood, and so also is that of surgery. The former includes the application and use of medicines and drugs for the purpose of curing, mitigating, or alleviating bodily diseases; while the functions of the latter are limited to manual operations, usually performed by surgical instruments or appliances. . . . To allow incompetent or unqualified persons to administer or apply medical agents, or to perform surgical operations, would be highly dangerous to the health as well as the lives of the persons who might be operated upon, and there is reason to believe that lasting and serious injuries as well as the loss of life have been produced by the improper use of medical agents and surgical instruments or appliances. It was the purpose and object of the legislature by this act to prevent a continuance of deleterious practices of this nature, and to confine the uses of medicine and the operations of surgery to a class of persons who, upon examination, should be found competent and qualified to follow these professional pursuits. No such danger could possibly arise from the treatment to which the plaintiff's occupation was confined. While it might be no benefit, it could hardly be possible that it could result in harm or injury.

"And for that reason no necessity existed for interfering with this pursuit by any action on the part of the legislature. It may be that credulous persons would be deceived into the employment of the plaintiff, and in that manner subjected to imposition. But it was no part of the purposes of this act to prevent persons from being made the subjects of mere imposition."

Either the italicized words are superfluous or they contain an implication that if the treatment, in the court's opinion, had been capable of causing injury like improper medical treatment, the judges would have classified it in the same category.

OTHER DEFINITIONS.

In Eastman vs. State (10 N. E. 97), an Indiana case, the court said, on the other hand: "It is the purpose of the statute to prevent persons who do not possess the necessary qualifications to practice medicine or surgery from inflicting injury upon the citizens by undertaking to treat diseases, wounds and injuries." And again: "The state has an interest in the life and health of all its citizens, and the law under examination was framed, not to bestow favors upon a particular profession, but to discharge one of the highest duties of the state—that of protecting its citizens from injury and harm." In People vs. Phippin (70 Mich. 6), the defendant was held to have practised medicine, on proof that he held himself out as "Dr. W. W. Phippin, magnetic healer," had attempted to cure the sick, and in the case of a child's death had certified the cause to be "canker, sore mouth. Duration of disease: June 3 to July 22, 1887." In Bibber vs. Simpson (59 Maine 181), a clairvoyant who gave remedies was said to be practising medicine. So also in Nelson vs. Harrington (72 Wis. 591). And in New York, De Leon, who prescribed for a child, drawing its horoscope and giving some rhubarb, was convicted of illegal practice of medicine. The administration of electricity has also been held to constitute medical practice—Davison vs. Bohlman (67 Mo. App. 576).

The Ohio statute provides that: "Any person shall be regarded as practising medicine or surgery, within the meaning of this act, who shall append the letters M.D. or M.B. to his name, or for a fee prescribe, direct, or recommend for the use of any person any drug or medicine or other agency for the treatment, cure, or relief of any wound, fracture, or bodily injury, infirmity, or disease." That seems very broad; but in the case of Eastman vs. State (6 Ohio, Dec. 296), it was held, in January, 1897, that a "graduate of the school of osteopathy of Kirksville, Mo.," was not practising medicine by kneading and manipulations, using only his hands and no medicines. The court cited Smith vs. Lane, and held that the words "any other agency" were too vague and were limited by the particular words "drug or medicine."

The New York statute does not define medical practice. Such a definition was framed in the draft of the act of 1887, but stricken out because a certain senator, who died shortly afterward, declared that it would include an eccentric healer who had saved him from the grave. The definition was yielded to save the bill.

The Nebraska medical act defines as a practitioner, any one "who shall operate on, or profess to heal, or prescribe for, or otherwise treat any physical or mental ailment of another."

FAITH CURE AT ISSUE.

Under this statute arose, in 1894, the case of State vs. Buswell (40 Neb. 158). The defendant, charged with unlawful practice of medicine, claimed to be a Christian Scientist, graduated from the Metaphysical college of Mrs. Mary B. G. Eddy, of Boston. Defendant offered testimony to cures wrought by him in cases of rheumatism, rattlesnake bite, pneumonia, and scarlet fever—the last in the case of a child, four years old. He testified that in eighteen months he had treated about one hundred persons, of whom only two had died. The accuracy of his diagnosis was not in issue. He testified that the text-books of the Christian Science church are the Bible and Mrs. Eddy's work "Science and Health." He denied that in a medical sense he treated physical or mental ailments, saying: "I understand with God's laws, and not mortal man's." Questioned as to the privilege of patients or parents to call in medical aid, he said: "We believe that every one has a right to express their wish, and it is always understood that if they prefer some other treatment, or some other mode, or some one else to aid them, it is their privilege. We always do that. It is taught in our text-books. We never give any medicine; that is entirely contrary to the teaching of Christian Science." And his counsel said: "The defendant, and those of the same faith with him, believe as a matter of conscience that the giving of medicine is a sin; that it is placing faith in the power of material things, which belongs alone to Omnipotence. To the Christian Scientist, it is as much a violation of the laws of God to take drugs for the alleviation of suffering or the cure of disease, as for a Methodist clergyman to take the name of his God in vain to relieve his overwrought feelings."

Being asked if he took pay from his patients, he said: "As a rule I do not. We tell them we leave the question to them and God. . . . Jesus says the laborer is worthy of his meat, and we expect that those whom we spend our lives for to remunerate us for it. If they are not willing to part with the sacrifice themselves, it is not expected that those should reap the benefit." Considering that defendant described his treatment as one of of prayer; this intimation that the answer to prayer would be contingent on the payment of the scientist's fee apparently seemed rather blasphemous to the court, who very aptly cited two cases from one of the science's text-books, the Bible—the former, that of Simon the sorcerer (reported in Acts viii. 18-23, to whom Peter said, "Thy money perish with thee, because thou hast thought that the gift of God may be purchased with money;" the second that of Gehazi (2 Kings, v:20-27), servant of Elisha, who finding that his master had gratuitously cured of leprosy Naaman, the rich Syrian, thus establishing a precedent for dispensary abuses, remarked, "as the Lord liveth I will run after him, and take somewhat of him," and in the end took not only a fee but the disease. Upon these precedents the Nebraska court ruled thus:

ANOTHER TRIAL.

"The exercise of the art of healing for compensation, whether exacted as a fee or expected as a gratuity, cannot be classed as an act of worship. Neither is it the performance of a religious duty, as was claimed in the district court." They further said: "The object of the statute is to protect the afflicted from the pretensions of the ignorant and avaricious, and its provisions are not limited to those who attempt to follow beaten paths and established usages." This, it will be noticed, is very different from the view of the New York law taken in the New York case of Smith vs. Lane and the Ohio case of Eastman vs. State (supra), as well as from the latest case of the kind, State vs. Mybod (40 At. 753), decided in Rhode Island last July upon these facts: Defendant undertook to cure one Hale of malaria and one Vaughan of grippe, by apparently engaging in silent prayer and giving them pamphlets on Christian Science. He received a fee of $1, but gave no medicines, made no examination or diagnosis. He testified that he did not attempt to cure disease, had no knowledge of medicine or surgery, and that his only method was "prayer and effort to encourage hopefulness for all who come to him in public or private, and whatever diseases they may imagine they have." The court held, citing Smith vs. Lane, that in the absence of diagnosis, prescription of remedies, or surgical methods there was no medical practice. They suggested that if Christian Science is practice of medicine, then as a school it is entitled to recognition by the state board, and that it would be absurd to hold, under the Rhode Island statute which forbids discrimination against medical schools, that requirements could be prescribed which members of a particular school could not comply with, since that would be not to discriminate only but to prohibit. And the court distinguished the cases of clairvoyant physicians, upon the ground that therein the defendants had prescribed medicine and professed to cure diseases. There seems to be fallacy in the implication by the court that any educational requirements as a condition of medical licence are prohibitory upon any persons except those who are unable to acquire an education; and it is quite proper to exclude such persons from the ranks of physicians.

COMMON SENSE.

The question is full of difficulty. Every one admits the power of mental impulses in nervous diseases; admits nature's healing force that so often cures without any attendance at all; and admits that it would be wrong to forbid all recourse to any aid. But this much being conceded, are we to admit also that any person should be entitled to take charge of the sick merely because he pretends to act under religious beliefs and to abstain from using those remedies and methods arrived at by study and investigation? Are we to punish the physician who fails to report yellow and scarlet fevers, diphtheria, and other contagious disorders, and allow a person who boasts his ignorance of medical and sanitary science to treat and conceal such cases? The Christian Scientist, in his madness or worse, says that there is no disease but only fear or loss of relation to God, which he in his blasphemy undertakes to restore, providing he is paid for his services. What, then, would his death certificate be? Would it be that Jones was permanently scared? What would his report of a contagious disease be? That Brown has a panic, which is likely to spread?

In the case of Reynolds vs. United States (98 U. S. 145, A. D. 1878) the supreme court of the nation applied common sense to this proposition, that the name of religion may be used to cloak either lust or imposture. Defendant, a member of the so-called Church of Jesus Christ of Latter-day Saints, being indicted for bigamy, pleaded in defence that the penalty imposed by his church upon its male members who failed to practise polygamy "when circumstances would admit" was "damnation in the life to come." No such dreadful penalty hangs over a Christian Scientist who abtains from his lucrative practices. The supreme court said in Reynolds' case: "Laws are made for the government of actions, and while they cannot interfere with mere religious belief and opinions they may with practices." Can it be seriously contended, asked the court, that a civilized nation may not lawfully suppress human sacrifices and the Indian custom of suttee, because their votaries claim religious sanction therefor; or polygamy for the same reason? To suffer such things, it was answered, "would be to make the professed doctrine of religious belief superior to the law of the land and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances." These wise words of the court apply even to honest believers, whom we may respect, or, at least, sympathize with, even in their delusions. But if the defence of religion were allowed to the extent that the eccentrics claim, the deadly sin of lying would become even more prevalent than it is, and the dangerous classes would go over in a body to soidistant religion.

AN ENGLISH CASE.

There was an English case in 1868, Reg. vs. Wagstaffe (10 Cox's Cr. Cas. 530), wherein parents were charged with manslaughter of a child because, pursuant to their religion as members of the "Peculiar People," they neglected to provide medical attendance for it, in a case of acute inflammation of the lungs; instead they anointed and prayed over it. The court charged that if they had let the child starve for want of food, the case would have been different; for every one recognizes the need of food. But it was not the same when the question was one of medical attendance, for as to that opinions differed, and he read to the jury from the general Epistle of St. James v. 14-15 those words upon which the Roman church rests the doctrine of extreme unction, and the Mormons and "Peculiar People" rest their doctrine of healing the sick by anointing and prayer only; words which the learned and sensible commentator, Adam Clark, forcibly argues to be an exhortation by the apostle to use the ordinary Eastern remedy, oil, as well as prayer, in treating the sick. The jury acquitted. Recently in a like case, Reg. vs. Cook, they convicted.

Beyond doubt there are very honest, intelligent, cultivated persons who believe in the efficacy of Christian Science and faith cure. Among some twenty cases of death under such treatment, including cases of contagious diseases, the writer has noted the names of such persons. It is equally true that some "intelligent persons" find no "fad" too extraordinary for adoption. The writer knew of a most shrewd and cultivated woman who consulted in Sing Sing prison as to investment in stocks an "astrologer" convicted not only of illegal medical practice but of abhorrent crime. It is said that where voudooism prevails, cultivated people consult its priestesses, after the fashion of Nicodemus. And when St. John Long, prince of quacks, was convicted of manslaughter at the Old Bailey (4 Car. and P. 398) among the twenty-nine patients who testified to the excellence of his treatment were divers "ladies of quality," headed by the Marchioness of Ormond, than whom, save royalty, only a duchess could be better able to form a sound opinion in such a case.

THE LAW'S LIMITS.

But nothing is more false than to say that medical laws forbid the practice of Christian Science, faith cure, voudoo, vitapathy, or any other "pathy" or cult. Those laws provide only, at most, that no person shall practise medicine who has not pursued a course in medical study. There is nothing in them to prevent any licentiate from practising as he pleases. There is nothing to prevent a masseur without license from washing and rubbing a man, if he confines himself to that. But there is no reason why unqualified persons should be allowed to pretend to cure diseases, by their pretences deprive the sick of the benefits of science, and yet escape the just consequences of their imposture. The whole case of these people who desire to earn a livelihood by treating the sick without any adequate preparation therefor through study and investigation was summed up in the grotesque falsehood, circulated by way of petition to the New York legislature of 1885 for the repeal of the medical law, which said:

"The law deprives from practising in this state persons who are gifted with the power of healing by the laying of hands, through the presence and imparting of vital magnetic force, and otherwise. Some of these powers are natural to the practitioner and cannot be imparted or increased, but are likely to be limited or impaired by the course of study required by medical colleges." Could anything be more absurd? The natural power to heal disease impaired by the acquisition of knowledge concerning disease! And yet there were those prepared to believe even that, so true is it today as of old that the wonderful is the unknown and the credible that which is impossible of belief.

It may be a question of policy whether Christian scientists should be prosecuted; whether cheap martyrdom might not strengthen them. But there seems no good reason, as matter of law, why they should not be punished for the evil they actually do, prohibited, if the policy seem wise, from treating the sick without adequate preparation by study of medical science, and convicted of manslaughter if death results from their interference.