

basic principles guide the courts in this area? This treatise fails to answer such questions for this reader.

This set was designed for the use of the practitioner.<sup>4</sup> But if a book is to be a satisfactory working tool for the attorney, the materials in it must be readily accessible. This treatise does not meet that requirement. There is a complete lack of adequate cross referencing. Instead, there is frequent fragmentary repetition of principles elsewhere discussed. A blatant example of duplication is found in Chapter 5. Two of its fifty-nine sections are entitled "Necessity of Exhausting Administrative Remedies."<sup>5</sup> Each proceeds in majestic isolation; there is no cross referencing and no citation of common authority. And a third section in the same chapter is denominated "Relief in Federal Administrative Agency as Barring Right to Declaratory Judgments, When."<sup>6</sup> But again there is no cross referencing, and again no citation of common authority.

In the opinion of this reader, the work under discussion fails to do justice to the clarity, simplicity, and utility of the declaratory action.

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THE DETECTION OF MURDER. By William F. Kessler, M.D., and Paul B. Weston. New York: Greenberg Publishing Co., 1953. Pp. xv, 239. \$3.50.

IN 1839 three medical men,<sup>1</sup> whom history has otherwise committed to oblivion, published in the city of Edinburgh, Scotland, their *Suggestions for the Medico Legal Examination of Dead Bodies*.<sup>2</sup> On the flyleaf of this pamphlet the trio stated their purpose as follows:

"It will be remarked, that we propose to turn the attention of the Medical Inspector to some points which are often inquired into, not by him, but by magistrates, or other official persons, not of the medical profession—such as the place where the body is found; its position when first seen; surrounding objects; the clothes, etc. This we have been led to do, because we have had occasion to observe, that on such points, *important articles of evidence have been overlooked, owing to the absence of a medical man, to whom alone their importance would be apparent.* . . ."<sup>3</sup>

These remarks would serve as an appropriate preface to *The Detection of Murder*, published one hundred and fourteen years later. The co-authors, Dr. Kessler and Mr. Weston (who is a deputy-inspector of the New York City Police Department), not only demonstrate that doctors and detectives can

4. See prefaces to first and second editions.

5. §§ 204, 234.

6. § 202.

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1. Thos. Stewart Traill, R. Christison, and James Syme.

2. Pamphlet, published January 19, 1839, by Alexander Smellie.

3. Emphasis added.

cooperate successfully in the production of books, but argue convincingly that the detective-physician team can solve unexplained sudden deaths more effectively than can unassisted police. This volume establishes that in the United States "[I]terally, thousands of people each year are getting away with murder,"<sup>4</sup> and ably maintains the thesis that fewer of these malefactors would escape if there were more general cooperation between medical science and the police investigators of sudden deaths.

It may, perhaps, seem surprising that Dr. Kessler and Inspector Weston should find such a position worthy of extended presentation after more than one hundred years of forensic medicine in the Anglo-American courts. A moment's reflection, however, will call to mind that the role of medical evidence in common-law homicide trials has received recognition principally in England<sup>5</sup> and Scotland.<sup>6</sup> Although Americans have made some significant contributions to the field of legal medicine in its broadest sense, there has been little prevailing understanding of how the medical expert can contribute to the *investigation* of violent death above and beyond the usual autopsy report.<sup>7</sup> In some of the large cities there are first-class medical examiners who devote their full time, and considerable skill, to the enforcement of criminal justice;<sup>8</sup> yet too often, as the authors point out, the investigation of homicide or apparent suicide falls into routine procedures where the shrewd killer can outwit the fumbling gumshoe. The authors feel that nowhere in the world is the investigation of unexpected death so haphazard as it is in this country. They assert that of almost three hundred thousand suspicious deaths a year in the United States, only a little more than ten thousand are officially classified as murders.<sup>9</sup>

The best feature of the volume is its basic organization. After discussing the ease with which police departments may overlook a homicide, the book turns to a problem which fictional detectives rarely confront, but which in real life may often be the greatest obstacle to closing the file on a homicide case. This is the task of properly identifying the victim. Where there are mutilated and dismembered torsos, bodies that have been subjected to fire or long immersion in water, or those which have merely decayed through sustained

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4. P. 1.

5. See, *e.g.*, BROWNE & TULLETT, *THE SCALPEL OF SCOTLAND YARD* (1952). This biography of the great English pathologist and Crown medical expert, Sir Bernard Spilsbury, is also, because of the great record of its subject, almost a history of English forensic medicine from the trial of Dr. Hawley Harvey Crippen in 1910, for the poisoning of his wife, to Spilsbury's last big case, a felony murder trio conviction in 1947.

6. The University of Edinburgh has one of the oldest separate chairs of forensic medicine in the world.

7. For a brief history of legal medicine in the United States, see Kozelka, *Legal Medicine in the United States*, 11 *CIBA SYMPOSIA* 1305-12 (1950).

8. Dr. Richard Ford, Medical Examiner for Suffolk County (Boston), Massachusetts, and an Assistant in Legal Medicine on the faculty of Harvard University, is one of these. So was his predecessor in office, Dr. Alan R. Moritz.

9. P. 1.

exposure or because of corrosive surroundings, this task may involve medical detection of a very high order.<sup>10</sup> Without recognizable finger prints, facial characteristics, or even body structure, medical efforts at identification can often establish a remarkable number of points leading eventually to the substitution of the victim's name for a police file description. This technique is illustrated by the case of a woman eventually identified as Dorothy Martin, fragments of whose dismembered and disfigured corpse were found in the lockers of a Long Island Rail Road Station in Brooklyn, New York, on December 4, 1950.<sup>11</sup>

From problems of identification, the authors proceed to discuss how a dead body "talks," naming its killer. Particularly useful is the condition of the body (rigor mortis, post mortem temperature of the body, degree of putrefaction, etc.) in fixing the frequently vital time of death. The book then describes steps in the initial investigation of violent death, followed by a treatment of particular types of murder and suicide. The special topics of wounds, contusions, and asphyxia as causes of death are then considered. In connection with suicide, the important point is developed that suicide, just as much as its counterpart, homicide, should be proved beyond a reasonable doubt; on the other hand, police should be less ready to take refuge in accident as a sort of residual category to which otherwise unexplained mysteries are consigned. In particular, it is argued that falls from heights, often fitting the newspaper description "fell, jumped, or was pushed," should be as susceptible to rigorous proof of cause of death as other types of violent demise.

The weakest parts of the book are Chapters VI and VII, where the authors attempt to turn amateur psychologists and treat "Motive for Murder" and "Murder Without Apparent Motive." Each of these highly complex topics is disposed of in twenty-odd pages in what amounts to a series of rather worthless generalizations. The treatment is necessarily superficial and not germane to the central subject matter of the work, where the writers, calling upon valid experience, stand on much firmer ground.

As a survey, this book has considerable merit, more for the detective first meeting the subject than for the medical practitioner. For lawyers and judges it may stimulate further inquiry into the fascinating field of forensic medicine. And the book will serve to remind those connected with law enforcement how law must turn to medicine for assistance in one of its grimmest responsibilities—the detection of murder.

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10. The writers disclose some quaint underworld *patois* in this connection. Burned bodies are termed "roasts." Bodies found in water are denominated "floaters" unless committed to the brine with a concrete "overcoat," as in Prohibition days.

11. Identification of the victim may become the major issue at the trial. It may be recalled that in the *Crippen* case, referred to at note 5 *supra*, the main line of defense was that the human remains found in Dr. Crippen's cellar were not those of his wife.

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