

Hypnotism and crime

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THE medico-legal question arose, we may say, in the early days of hypnotism, or animal magnetism, as it was called in 1784. At that time, Louis XVI., moved by the rumor current about the new medical treatment discovered by Mesmer, appointed a commission to investigate animal magnetism. The secretary of this commission was Bailly, member of the Academy of Sciences, who a few years later fell a victim to revolutionary violence. Of his fellow members of the commission we may name Franklin, Lavoisier, d'Arcet, and the famous Dr. Guillotin, of Bicêtre. August 11, 1784, the commission made their report. Setting all theory aside, and confining themselves to the simple ascertainment of the facts they had observed, they laid special stress upon the "crises" and their hurtful consequences. Not only did Mesmer's treatment seem to them little deserving of encouragement, but they condemned it in the strongest terms. "These nervous disorders," said they, speaking of the crises, "when natural, are the despair of physicians; it is not for art to produce them." The exhibiting of these crises is no less dangerous, because of that imitateness which nature seems to have made a law of our being; therefore "all public treatment wherein the methods of magnetism are employed, can in the long run have only a pernicious effect." Thus the commission seemed to invoke the rigor of the law upon public treatments with magnetism. They went further still; for to this report, designed to be published, they appended another, which for a long time remained secret. It dealt specially with the dangers to which good morals were exposed in the Sieur Mesmer's house. The Lieutenant of the Police now intervened, and, addressing Dr. Deslon, Mesmer's assistant, said to him: "In my capacity

of Lieutenant General of the Police, I ask you whether in case a woman is magnetized or in crisis, it would not be easy to outrage her. "Deslon answered affirmatively, and pleaded that his confrères "pledged by their calling to honorable behavior," should have the sole right to practice magnetism.

In truth we may say that the royal commission, in their report, covered all the medico-legal aspects of hypnotism. Yet we do not find in it any remarks upon "criminal suggestion," so called, about which much has been written in our day; for at that time nothing was yet known of somnambulism, the period in hypnosis at which suggestion is most readily practicable. But if Mesmer never was able clearly to determine what were the phenomena he produced, it was not so with one of his disciples, the Marquis de Puységur, who, intent specially upon avoiding the crises that his master almost invariably brought about, discovered artificial somnambulism and drew up the first rules for hypnotic suggestion. It was even his fortune to observe and note the fact that the somnambule was not absolutely a mere automaton, but had an individuality of his own capable of withstanding suggestions of a certain class. This resistance to suggestions is highly important as regards the matter in hand, and it is worthy of mention that one of Puységur's somnambules said beforehand that he would have a crisis if he were compelled to carry out a suggestion that he did not accept.

This brief historical account premised, before I touch upon the present state of the question I deem it necessary to offer a few remarks needed for a clear understanding of the facts that are to follow. One

point that to me appears to be established by incontestable observations, is that the persons, whether men or women, who are susceptible of hypnotization, are nervous creatures, capable of becoming hysterical, if not actually hysterical at the beginning of the experiments. Hypnotism and hysteria are very near of kin; and some hysteric disorders-those which assume a cataleptoid form for instance-have often been taken for hypnotic catalepsy by inexperienced observers. In the second place, it is to be noted that hypnotism is a genuine neurosis, not a physiological state; that it has its determinism, judged, in the physical order, particularly by the neuro-muscular superexcitability, which assumes two special aspects, the lethargic and the somnambulie. In the lethargic form I have shown that the muscle or the nerve contracts or produces contracture under the action of a direct pressure; in the somnanibulic form cutaneous excitation alone causes the subjacent muscle to contract. Such is the case at least in the state which I call the major hypnotism, in contra-distinction to another state, the minor hypnotism, wherein, physical signs failing, the only criterion of the sleep is the greater or less suggestibility of the subject-an insufficient criterion and difficult to appreciate in a matter wherein simulation must ever be present to the mind of the observer. I would remark further that men, though hysterical, are seldom and only with difficulty hypnotizable -a fact that I have been able to establish in my service at the Salpêtrière, where cases of male hysteria are very frequent. Finally, I have proved that in hypnosis there are three states: the lethargy, the catalepsy, and the somnambulism. In the first two, and particularly in the lethargy, there is absolute unconsciousness; the subject is motionless, his will is in abeyance, there is no suggestibility. In the third state, on the other hand, the subject hears, sees what goes on, is capable of receiving and carrying out suggestions given him by the person who has hypnotized him. A specially important fact is that on awaking he recollects, outside of the suggestion given him, nothing of what has happened during the sleep; but he will recollect it in a second period of hypnotic somnambulism, unless a contradictory suggestion be given. This loss and this recovery of recollection under fixed conditions, play an important part in medico-legal hypnotism.

From what has just been said about the different hypnotic states, one readily infers that the "faits passibles" (Acts, occurrences, transactions in which a person is passive) that come up in the courts, in which hypnotism is supposed to have part, will be such as these: attempts upon the person during

the periods when the will is in abeyance and the sleep complete; criminal suggestions and their consequences during the somnambule's period of mental activity. To these two categories I add a third, the most important perhaps of them all, namely, the mischief done by the ill-advised hypnotization of subjects predisposed to hysteria, and the responsibility thus incurred by the hypnotizer.

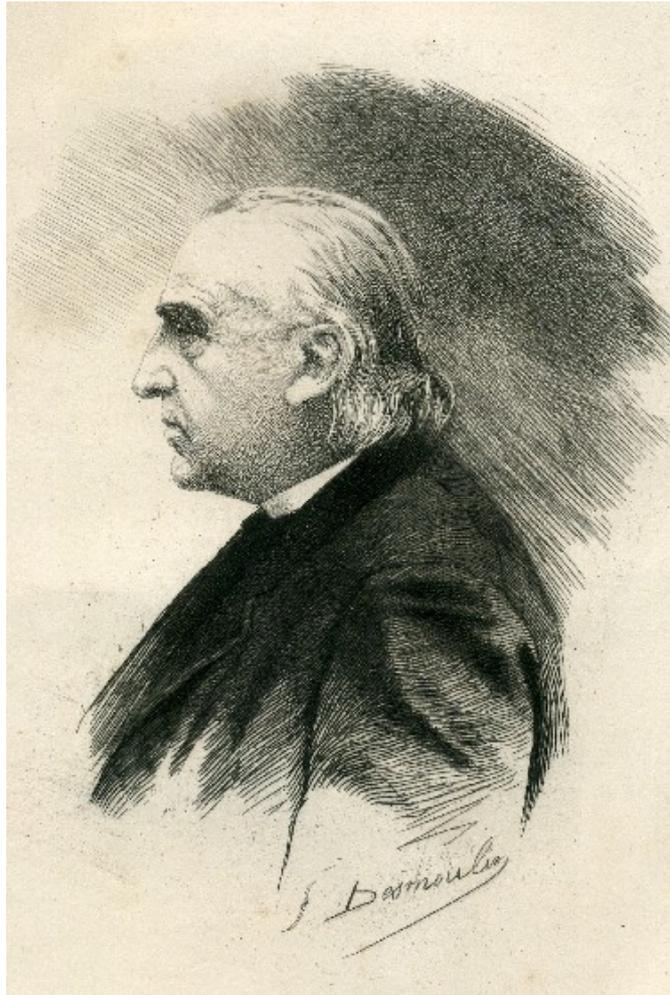


As was surmised by the royal commission of 1784, rape and attempts to rape are the crimes that are oftenest committed upon hypnotized persons. That this should be so is readily seen, for in the lethargy especially, as I have said, the subject is, so to speak, so much lifeless matter offered to the lechery of the magnetizer. Dr. Gilles de la Tourette, formerly my chief of clinic, in his work on "Hypnotism from the Medico-legal Point of View," ("L'Hypnotisme au Point de Vue Médico-légal." Paris: Pion. 2d edition, 1889) is able to cite five facts of this class developed in actions at law-a number comparatively large if we take account of the difficulties that in such cases attend the detection of the culprit. I must add that in these five cases the crime was not in every instance committed during the lethargic state. The somnambule can, as I have said, withstand a suggestion; but I must add that by the very fact of the somnambulism there arises often a quite special state of "affectivity" between the hypnotizer and the hypnotized. Thus, a woman who in the waking state would have been chaste, may during the somnambulism give herself up to the one who has hypnotized her, especially if the hypnosis has been repeated many times. In one case, that of Castellan, in 1865, the jury held these relations to be of the nature of rape, the moral force of resistance in the subject having been broken down by the magnetizer. A similar case was reported by Dr. Bellanger, in 1854, the accused being a physician, who by absconding saved himself from the punishment that awaited him.

In the cases just mentioned the hypnotized subject is the direct victim of the magnetizer. In the two that follow the question is different. Here the somnambule commits a crime at the instigation of the one who hypnotizes him. We thus come to the consideration of criminal suggestion, as it is called—a subject that has made a good deal of noise during the last few years. The problem to be solved is this: Given the suggestibility of a somnambule, can one use him to do a criminal act to which he would never have consented outside of the hypnotic sleep? It may be observed that, theoretically, the "suggestioner" can assure himself impunity by ordering the subject not to recall, on awaking, the name of the one who gave the suggestion. The order given by the hypnotizer may be carried out while the subject is in the somnambule state (intra-hypnotic suggestion), or in the waking state (post-hypnotic suggestion). Let us study the latter variety and consider a case. I set a subject asleep and place him in the somnambule state, satisfying myself as to the reality of this state by bringing into action the neuro-muscular super-excitability peculiar to this period of hypnosis. I then say to him: "You know A; he is a contemptible fellow and is ever trying to injure you. He must be put out of the way. Here is a dagger. Tomorrow"—or the day after, or ten days hence, for the suggestion may extend over a considerable interval—"you will make your way to his home; you will wait till he quits the house, and will stab him without any pity. He must die. You are not to remember at all that I ordered you to kill him, even if you be hypnotized again." The subject takes the suggestion, and promises to kill the one who has become his enemy. At the appointed hour he will be at the place named, and will deal the blow with a steady hand. Whether arrested or not for the deed, he will find it out of his power to reveal the name of the one who put the dagger in his hand. The theme is an attractive one, but can the thing be done? Experimentally, yes; and there is hardly any one that has studied hypnotic suggestion that has not on his conscience many of these laboratory crimes, in which pistols go off only in the subject's imagination.

Let us consider the matter a little in detail. In the study of suggestion we find in the first pla-

ce that all subjects are not equally available for successful experiment. Some subjects positively refuse to obey. "Why do you want me to kill Mr. A? He has always been kind to me"; or, "I do not know him; he has done me no wrong." Here we have resistance to suggestion, observed even by Puységur, and criminals will find themselves confronted by this. The check is all the more serious because one does not by any means succeed, at the first hypnotizing seance, in putting the subject into a state of somnambulism so profound as to justify the expectation that such suggestions will



be accepted. The training of the subjects is no easy thing and takes time; and besides, fit subjects are by no means so plentiful as some authors would have us believe. So then we have these points to take into account: fewness of the subjects, time and labor spent in their training, and possible resistance to suggestion.

Now let us attempt the solution of the problem. The suggestion is accepted; at the appointed hour, a thought that till then had lain entirely

dormant suddenly arises in the brain of the "suggested" subject, and there overmasters all others the thought of murder. The assassin, whose crime has been contrived and planned beforehand by the suggester, lies in ambush, with arm raised; he strikes when the victim passes. But if the victim does not pass, what then? Will he put off the crime till the next day? By no means. The victim must be there at the appointed hour, else, as I know very well from repeated experiments, a fit of hysteria will in most cases be the ending of the matter. Or perhaps the subject will have an attack of acute delirium, or of babbling mania, very unfortunate for the magnetizer; and this cannot be checked save by counter-suggestions that it is always very difficult to make the subject accept, as has been shown by my former pupil, Dr. Pitres, now Dean of the Faculty of Bordeaux. It is absolutely necessary, then, not only that the suggestion be accepted, but also that its conditions be realized. An odd sort of assassin this, who does not know enough to sheathe the sword he cannot use; who from the instant the hour is struck, is nothing but an unconscious automaton controlled by all the caprices of a fixed idea. Experimentally, when we furnish a subject with a crime already planned, arming him with a pasteboard dagger, or providing him with a poison consisting of a harmless powder, we may witness the carrying out, in all its details, of what I have called a "laboratory crime." But is it so, can it be so, in real life? I for one doubt it. For though writers who have treated the question have reported a plenty of experiments, they have not yet been able to discover one single crime of this kind actually committed; and that not because they have not sought to discover such crimes. What is it that the criminal desires above everything? To escape punishment for his crime. Can he imagine that he will make sure his revenge and conceal himself from prosecution by putting a weapon in the hand of a lunatic somnambule? A moment's reflection shows that in the matter of criminal suggestions there is a wide interval between theory and practice.

In this utter lack of real crimes attributable to somnambules, the theorists of criminal suggestion entrench themselves behind the papers, contracts, deeds of gift, etc., that somnambules may fraudulently be made to sign during the hypnotic sleep. Well, suppose a somnambule signs a check, or a receipt for goods, is it to be supposed that the signer on awaking will part with his property and utter no word of protest? In the first place, having, as always happens in such cases, lost all memory of what took place in somnambulism, he will ask himself how it came about that he

should sign such a paper. From that question to the explanation is but a step; and should an investigation be made, it might bring confusion to the holder of the check or receipt. An extra-lucid somnambule may, by means of lying allegations and fallacious predictions, prevail upon the unfortunates who blindly put their trust in her advice, to part with large sums of money; that has happened often, and unfortunately will happen again. But hypnotic suggestion has nothing to do with that sort of cheats, in which the robber sleeps or feigns to sleep, and not the robbed. It will, perhaps, be urged that in the matter of testamentary gifts, the testator will not be at hand to undo his act; but the tricksters who seek to win bequests do not find somnambules everywhere, and the courts will not fail to inquire into the mental condition of the testator. In such cases are involved, it seems to me, downright impossibilities, which relegate criminal suggestion to the lowest place as regards the perpetration of crimes and frauds with the aid of hypnotism. And yet, from time to time the newspapers publish accounts of just such frauds and crimes. But what ground of truth underlies these stories, always exaggerated and distorted? In December, 1885, the newspapers told of a woman at St. Lazaire having under suggestion committed a series of thefts. Now what did happen was just this: A woman of twenty-six years stole a cotton coverlet and sold it for eighty centimes. Arrested on this charge, she said that, being sick and unable to procure for herself the necessaries of life, she had committed the theft in order to get bread. To the committing magistrate her mental state appeared to be such that I was called in to investigate, in company with Drs. Brouardel and Motet. The result was to show that Annette G., an hysteric and morphinomaniac, had, in a moment of cerebral disorder, caused by privation of her customary stimulant, committed theft in order to procure morphine. She was placed under my charge in the Saltpêtrière, and is still there. I have at my leisure fully assured myself that she did not steal under the influence of hypnotic suggestion, inasmuch as she is not hypnotizable! I am of the opinion that stories of this kind very often have no better foundation. As in the fable of the floating sticks, "De loin c'est quelque chose, et de pris ce n'est rien."

The courts, I repeat, will very seldom have to take cognizance of crimes or misdemeanors committed either by somnambules or upon somnambules. There is danger nevertheless, but it is to be looked for in another direction, and in particular in the injurious effects of ill-advised hypnotizations produced by persons ignorant of the healing art upon predisposed subjects. Hypnotism is a two-edged

weapon; wielded with judgment by experienced physicians, it may be a powerful means of cure; in reckless or incompetent hands it may produce disastrous results.

For several years the principal towns of Europe have been overrun by persons from no one knows where, who, bearing high-sounding titles, invite the people to hypnotizing performances given in the local theaters. Sometimes they operate upon subjects that they have brought with them; at other times they select out of the audience a few young persons who are willing to offer themselves as subjects of experiment. In these they produce, or try to produce, the different phases of hypnosis, and make them accept suggestions that of course have nothing at all to do with therapeutics. We can track a showman magnetizer of this sort by his victims everywhere. When he has gone, it is noticed that subjects with whom he succeeded best become nervous and irritable. Some of them fall of their own accord into a deep sleep, out of which it is not easy to awaken them; thereafter they are unfitted for the performance of the duties of every-day life. Others, and they the majority, are seized with convulsions exactly resembling the crises of confirmed hysteria. I have had occasion to deal in my clinique with several victims of these magnetizers. The observations are to be found in my "Leçons du Mardi à la Salpêtrière." I have shown that here we have to do with unmistakable hysteria, and that it is very clearly caused by the practices of the magnetizers. Considering how obstinate this neurosis is, particularly in men, as I have shown, ought not the law to intervene and to check these dangerous practices by absolutely prohibiting public exhibitions given by magnetizers? To protect human liberty is not to restrict it. It is quite plain to-day that, inasmuch as medicine, on behalf of both science and art, has in these later times taken possession of hypnotism, it alone can know how to apply it properly, whether in the treatment of disease, or in physiological or psychological research. Is it not right, then, that medicine should henceforth seek to reign as absolute mistress in this newly-won domain, and should repulse all intrusion?

Is it possible to define the rules of expert testimony in the matter of hypnotism? I do not think it is, for, as we know, the cases that come up in the courts are so varied that it seems difficult, under these circumstances, to give advice to the expert, who will have after all to find inspiration in the difficulties of the moment. With regard to responsibility in individuals subjected to the manipulations of the magnetizers, the expert has sole-

ly to find out whether there exist in the subject at the moment of his examination the signs of an affection-especially of hysteria-capable of having been produced by ill-advised hypnotic manipulation. In criminal causes involving rape, actual or attempted, the medical witnesses, in the cases we are acquainted with, have testified not only as to the signs of the assault, but also as to the hysterical, and further, the hypnotizable, condition of the subjects. This latter point, it seems to me, ought always to be investigated. Under these circumstances the physical marks of hypnotism are of very great assistance, for it is necessary to decide whether a woman who declares that she has been violated while in hypnosis, is actually hypnotizable. But the expert's conclusions ought not to go beyond this formula: The individual can (or cannot) be put into the hypnotic state. In the case of a male subject of hysteria, Dr. Motet proved in court the innocence of the accused by making him perform, in a second hypnotization, acts with which he was wrongfully charged, and of which he could not exculpate himself, because on awaking he forgot all that had occurred; here the alleged offense was committed in a first period of somnambulism. So, too, Dr. Dufay, by hypnotizing again a girl accused of theft, reawakened her memory and procured her acquittal of the charge made against her. But, clearly, whatever oversteps simple ascertainment of the person's actual state, should be carefully weighed by the expert. The physician testifying as an expert will remember that he must never act the part of an advocate; he must not by artificial means procure either admissions or accusations. Yet, in one case, perhaps, his keeping silence might be blamable, when in the course of his investigation he discovers that justice is making a misstep, and that an innocent person is in danger of being pronounced guilty.