

Drug Facilitated Sexual Assault, 1855

By PETER MOORE

Is drug facilitated sexual assault new, arriving with rohypnol? A report in the *British Medical Journal* of 1855 confirms something that any experienced police officer knows; there are few really new crimes.

The discovery of general anaesthetics in the mid-nineteenth century was, according to the *British Medical Journal*, “alas too speedily followed by the application of these agents to criminal purposes”.

Anaesthetics had been used in robberies, and even professionals had “taken advantage of the temporary helplessness of their patients and attempted to perpetrate a crime.” The government responded by making the use of chloroform in a crime a felony.

In Philadelphia, a dentist was convicted of raping a patient when she was anaesthetised. The *British Medical Journal* did not agree with the guilty verdict, having reviewed the evidence in the *National Police Gazette* of Philadelphia.

The *BMJ* report begins “A young lady, of unimpeachable character, who had for some time been engaged to be married, was accompanied by her betrothed to the house of an ancient and highly respectable dentist, for the purpose of having one of her teeth plugged.”

Her statement began:

I went to the office; took off my bonnet, and Dr B. went to the washstand to wash his hands.

But after giving her ether, she claimed that he

put his hand under my dress; on the bosom; he put his hand on my person, under my dress... he drew me down to the edge of the chair; ...he did enter my person.

Under cross examination she said:

I did not see any part of his person exposed, nor the application of any part of his person to me; I don't know, except from the pain, what part of his person was applied to me.

When she left she made another appointment, and several witnesses including her dressmaker and a young man in the street “did not perceive anything peculiar in the appearance of this young lady.”

In court, the prosecution tried to introduce “evidence of individual acts of impropriety committed by the defendant on former occasions with different persons,” but the judge ruled this evidence inadmissible.

Her family doctor was highly qualified. He was formerly Professor of Obstetrics in Jefferson College, and now Professor of Materia Medica and Therapeutics. He correctly pointed out that rape can occur without any injury, but had not examined her as she was menstruating. He claimed that ether, like brandy, could bring on a period.

Although the jury found the dentist guilty of rape, the *British Medical Journal* did not agree.

The only evidence was from the patient, and her experience could be explained by the known effects of ether on the “hyper-sensitive frame of an American lady.” They argued that ether is known to “excite the erotic propensities”.

The case for the prosecution, they argued, broke down without an examination of both the alleged victim and her clothes.

After over 160 years it is difficult to know whether the jury were correct. There were no SARCs, DNA profiling or trace evidence. Arguing that American ladies have a “hyper-sensitive frame” might not go down well in a 21st century court. “Exciting the erotic propensities” is no longer a known side effect of ether, but then ether is no longer used.

But there are two clear messages given in the report which are important for today's FMEs. First of all have a chaperone, and secondly “professional men should receive with extreme circumspection declarations made before them... and both in their written reports and verbal depositions should endeavour to enlighten magistrate and jury upon the relative value and credibility of such revelations.”

Today I would have to add professional women.



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