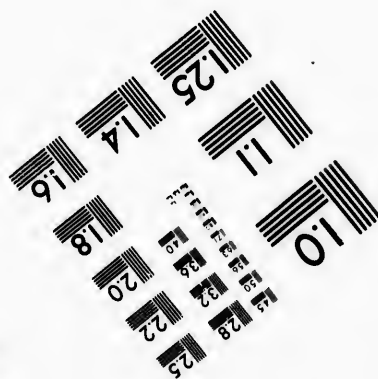
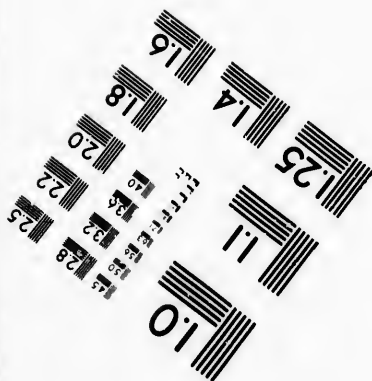
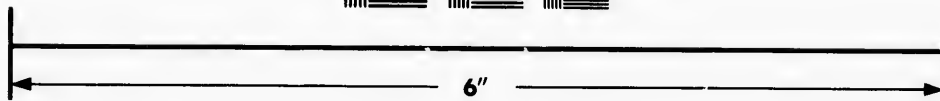
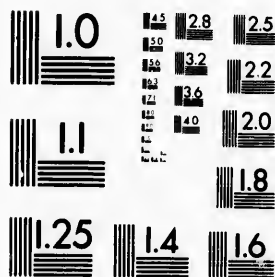
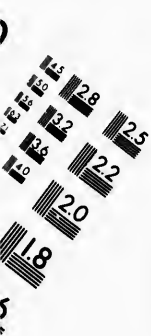


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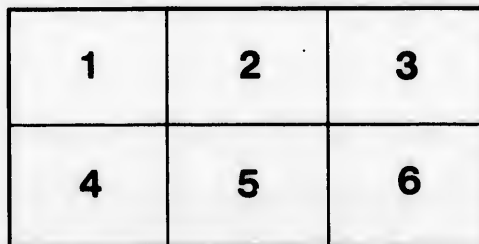
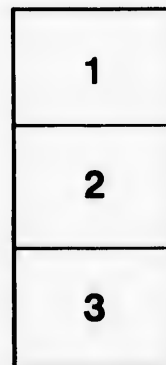
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AN ANSWER

— TO —

A Pamphlet entitled "A Review of the trial of Andrew Hill, for Murder, by Edward D. Worthington, A.M.; M.D.; one of the Governors of the College of Physicians and Surgeons, L. C.; etc., etc., etc.,

— BY —

ROBERT SHORT, ESQUIRE,

ADVOCATE.

— — — — —

"His unsold name, the mystery of his life,
His vouch against you, and his place in the state,
Will so your accusation overweigh,
That you shall stifle in your own report
And smell of calumny."

MEASURE FOR MEASURE.

—"As thou urgest justice, be assured
Thou shalt have justice, more than thou desirest."

MERCHANT OF VENICE.

— — — — —

SHERBROOKE.

1871.



1871
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AN ANSWER

TO

E. D. WORTHINGTON, M.D., &C.

A pamphlet, entitled "A Review of the trial of Andrew Hill for murder," was published some time since by E. D. Worthington, M.D., &c. In this publication my father, the late Judge Short, was attacked in the most unjustifiable manner. A production of so extraordinary a character demanded an earlier notice, which it would certainly have had received, if my father's illness and death had not happened so soon after its appearance.

When dead, and he could no longer defend himself, I felt that it was my duty to vindicate his character from the aspersions which had been cast upon it. I knew that these had embittered the last days of his life, if not hastened his end, and that, if living, he would never have rested until he had successfully repelled such an insolent and unprovoked attack upon his reputation. Though firmly convinced that the opinion of those who were acquainted with my father could not be influenced by such a person as Dr. Worthington, yet I feared they would produce a bad effect upon the minds of others to whom he was unknown, and who would never perhaps inquire whether they were true or false. I recollected the words of Voltaire: "*Mentez, mentez, il en restera toujours quelque chose.*"

Another reason for refuting this calumny of Dr. Worthington was the perusal of the following reference to my father, published in the *St. John's News* and bearing date the ninth June, the day after his burial:

"We have been favored by the perusal of a pamphlet by Dr. Worthington, vindicating his own professional skill, attainments, education and ability most modestly and successfully, and also passing some strictures upon the conduct of

“ the late lamented Judge Short. The paragraphs seem most
 “ severely penned and afforded no hold, so far as we could see,
 “ for an action for libel, while, by insinuation, they were most
 “ severe. There is no doubt that the germs of mortal disease
 “ were lurking in the Judge's system, and had no little to do
 “ with that temporary irritation which he himself must have
 “ regretted more than any one else. Judge Short has involun-
 “ tarily found the very best way of revenging himself on the
 “ pamphleteer, viz. : by dying. As Goldsmith says :

“ If lovely woman stoops to folly,

“ The only way to cheat her lover

“ And wring his bosom, is to die.”

“ If we only knew what diverse and divers pangs our enemies
 “ have had in the course of their whole lives, we should feel
 “ no grudge or revenge against them—rather pity.”

This, if it means anything, means that the matter contained
 in Dr. Worthington's pamphlet is true ; that Judge Short had
 done a grievous wrong and that he had no defence but to die
 &c. Such language published by one concerning another who
 had never injured him, and was dead and could no longer de-
 fend himself, proclaims a degree of wanton malice, heartless-
 ness, and cowardice, which must inspire every right feeling man
 with horror and disgust. The mere coupling of the author's
 name with these words should be enough to call down upon
 him the execration of all true-hearted men. His name is F. A.
 Emberson, M. A., Lennoxville ; the name of the editor of the
 newspaper—Smith.

In a later issue of the same paper there was an extract from
 the *Canadian Medical Journal* relating to this pamphlet of Dr.
 Worthington, in which the writer approves of that production
 and reflects on my father's memory. For this last act he urges a
 great principle. Does this principle sanction an insult to the
 dead ? These remarks relating to Judge Short were utterly
 uncalled for and unprovoked ; they clearly betray the charac-
 ter and object of their authors. If these persons choose to act up-
 on the belief that a “ living dog is better than a dead lion ” they
 are at perfect liberty to do so ; but they surely have no right
 to insult the dead, especially as they were ignorant of the facts
 of the case.

Having read the above articles, I had reason to reproach my-
 self for having allowed my father's name so long to remain un-
 der a cloud which could be so easily dispelled by the publica-
 tion of the truth. I saw that the death, which Dr. Worthington

had done so much to make unhappy, was not enough to satisfy him ; that it caused no remorse nor regret, but that there was a determination to perpetuate the falsehoods which he had published, to elevate their author as high as possible, and blacken the memory of the departed.

I have accordingly undertaken this task. To discharge it with composure many circumstances render it extremely difficult and painful : the revolting features of the case—the character of the pamphleteer—the nature of the attack and the terrible result, the death of a dear and honoured parent. I will however endeavour to perform it with calmness and impartiality. In attempting this, I claim fair, if not indulgent, consideration.

A moment's pause and inquiry into the motives which instigated the author to attack one so good and kind as my father, who had never injured him in any way, will serve to give some insight into the character of Dr. Worthington and his purpose in writing this pamphlet.

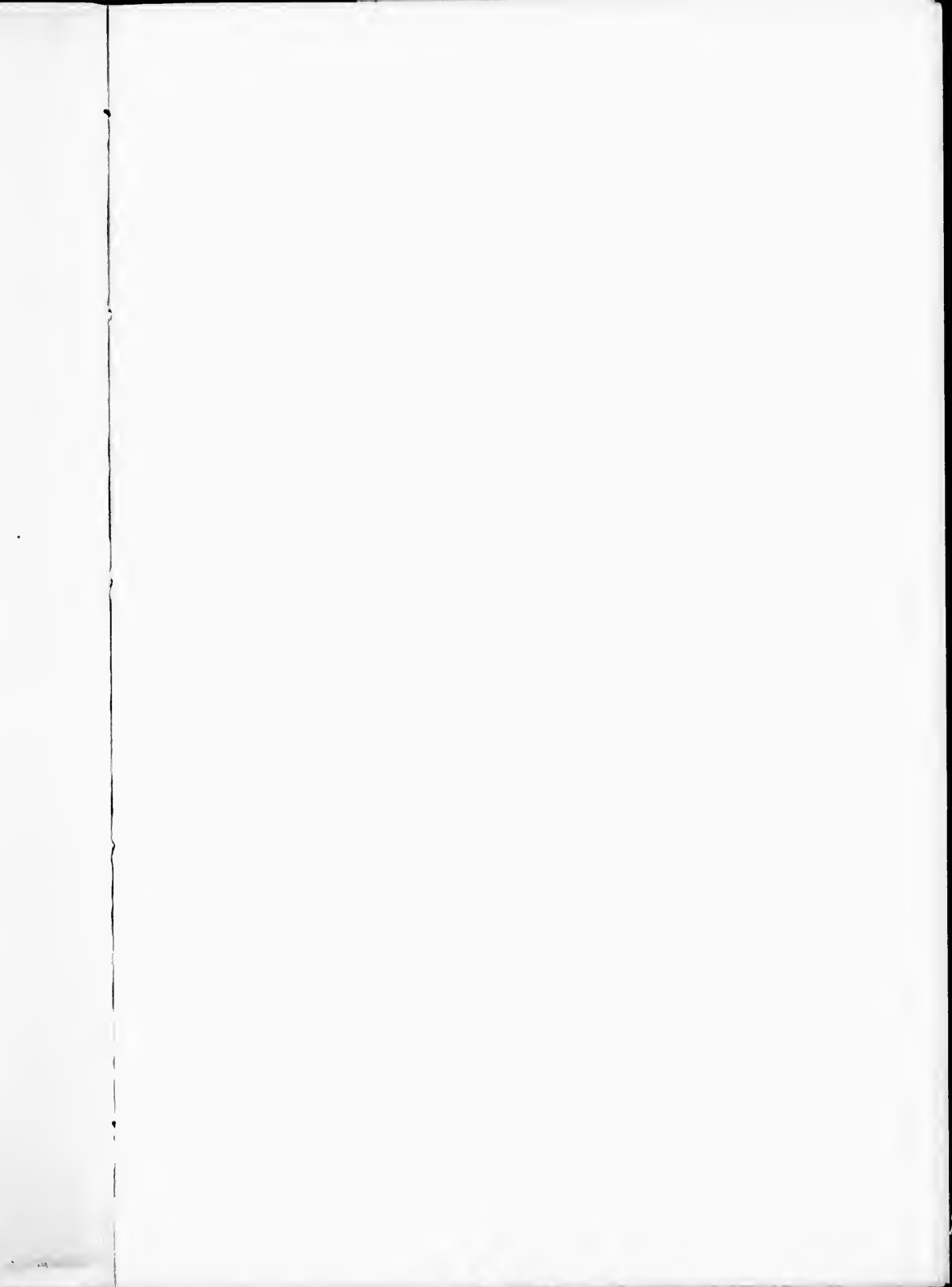
The reasons he has alleged for taking such an extraordinary proceeding are, that in his charge to the Jury on the occasion of the trial of Andrew Hill for the murder of his wife, Judge Short made him the subject of an unjustifiable attack which was published to the damage of his reputation, and that the Doctor's object is his own vindication.

These reasons are mere pretence and unfounded. Judge Short did not make him the subject of any unjustifiable attack whatever. It is true that in the course of his charge to the Jury in this trial, he analyzed severely the evidence of Dr. Worthington and commented upon it at considerable length ; his reason for doing so was this :—Dr. Worthington was the only witness for the prosecution who swore positively that a murder had been committed, Judge Short believed the life of the prisoner was endangered by his testimony, and was thoroughly convinced that the accused was innocent. Some of the Judge's remarks might have been severe, but their severity was justly deserved and greatly provoked by the character of Dr. Worthington's evidence and by the manner in which it was given. In his testimony Dr. Worthington contradicted himself, three medical brethren, and some of the highest authorities in his own science. His manner in the witness-box was marked by a degree of levity unfitting the place and the occasion, and unbecoming a

person of his age and profession. It was entirely in the exposure of his fallacies and contradictions, and in some animadversions upon them, that the severity of the Judge's charge consisted. If Dr. Worthington was hurt in his feelings or reputation by any of these remarks, it was purely incidental, not intentional. The object of Judge Short was to benefit the prisoner whom he believed to be innocent, and not to injure Dr. Worthington. It is not true, as asserted by the Doctor, that the Judge represented him as untruthful and uneducated; on the contrary, he paid a high compliment to his abilities. In support of this assertion, I subjoin a report of the Judge's charge, given in the *Sherbrooke Pionnier*. Though this report does not do my father entire justice, being only a hasty summary of what was said, yet it is the only one in which there appears to be no intention to misrepresent. It contains the substance of all that was spoken concerning Dr. Worthington, and will therefore serve the purpose for which I here introduce it. Literally translated from the French, it runs as follows:

“ At 5:30 His Honor commenced his address to the Jury. He first drew a lively picture of the terrible accusation under which the prisoner labored. Then he gave a succinct summary of the proof and commenced his comments: Had the prisoner any motive to commit this pretended murder? Two were attributed to him: first, jealousy, on the presumption that Grace and the deceased were on very intimate terms; second, a wish to prevent his wife from drinking. It is proved that the prisoner was on very good terms with Grace and that he was not jealous of him. (Here the Judge said—moreover it is proved that the deceased was not intoxicated on the night in question.) As to the pretended threats he may have made against his wife, in the presence of Mrs. Shores, we must recollect that this woman has not told the truth or was greatly mistaken on another important point; she might also be mistaken on this. The way she gave her testimony, her appearance in the box, her feigned or false emotion, her great grief two months after her sister's death, all this shows we must be cautious in receiving her testimony. As to this threat, it is to be remarked that if the prisoner had intended to execute it he would not have informed his sister-in-law of his design.

“ Passing to the medical evidence for the Crown, I must say



that I have no confidence in it. Dr. Austin does not agree with his colleague Dr. Worthington. The former gave his testimony at least with caution, and took time to form his opinion before affirming it; but the latter shewed himself positive, decided and dogmatic in his opinions. He asserted that the wounds in question could not have been accidental. To believe him, there must have been a concurrence of circumstances the most extraordinary to cause them. This poor woman must have taken a peculiar position on purpose to receive the mortal blow. This is not natural. If she had been caught in the act of infidelity, the first thing she would have done would have been to try to escape, as would also her accomplice. I believe then Dr. Worthington is in error on this point, namely, the manner in which these wounds were inflicted. Besides, if Grace had had any criminal intention, he would not have waited until he reached the prisoner's place in order to accomplish it; and no such circumstances having occurred, there is nothing to establish that the prisoner was provoked.

“The Doctor's pretension is therefore improbable; so much so, that we cannot admit it. Moreover, his testimony is incorrect. The examination of the body was not conducted with proper care. The description of the wounds which these two witnesses have given us, clearly proves this. Dr. Worthington said that the poker fitted the principal wound exactly, but it is proved that the instrument has not the same dimensions as this wound. The Doctor has been positive, but not exact. Often, the most positive men are the most liable to be mistaken. For example, that learned judge who said he would not believe his judgment erroneous, should the angels appear to him and tell him he was mistaken. (This is slightly inaccurate; the remark made by Judge Short is as follows: Dr. Worthington's manner reminds me of what a certain distinguished Judge said to me—when he had made up his mind on a law point, he was so sure he was right, that if the Angel Gabriel came to him and told him he was wrong, he would not believe him.) Doctor Worthington erred in a similar way, he has wished to place his opinions above those of all others, even of the most learned authors. Whatever may be the experience of a physician, experience and practice are not all that are necessary. In medicine as in other professions, knowledge and capacity are derived from the study of authors, from practice and from expe-

rience. Length of practice therefore is not sufficient to explain everything. There are some who learn as much in three years in a city as others in twenty-eight years in the country. Defect of education also counts much in medicine. Dr. Worthington has great talents, but he is liable to err and may sometimes be mistaken.

“Then in opposition to these two witnesses we have two men equally capable and more competent, because Dr. Worthington has not in his twenty-eight years’ practice met with one single case of thrombus or sanguinous tumor, whilst the other two physicians for the defence have seen such cases in their experience, and have told us, supported by the best authorities, that these tumors are not unfrequent, especially in the female sex. Now, Dr. Paré has stated that he had observed a varicose vein on the body of deceased. Agreeing with his colleague, Dr. Paget has expressed the opinion that the death of deceased might have been occasioned by the rupture of a tumor caused by her fall, and also that it was very improbable that these wounds had been inflicted with the instrument of which so much has been said. As to these circumstances, there is a serious and very important contradiction in the testimony of the medical men. We cannot, therefore, rely sufficiently upon it, in order to find this man guilty and send him to the scaffold. The other testimony is besides far from being enough to lead us to this conclusion. We must receive Grace’s testimony with the weight that is due to it, for what it is worth, but it is to be remarked that he is corroborated on the main points.

“The Crown has then entirely failed in its proof. In order to find the prisoner guilty, we must believe that he suddenly became a demon; this is incredible. Then let us be on our guard, for it is written: ‘He who sheds the blood of his brother, his blood shall also be shed.’ If we were to condemn an innocent man we should render ourselves guilty of the most terrible of all murders, a judicial murder. (This is inaccurate; the Judge said: The warrant under which we act is—‘Whoso sheds man’s blood, by man shall his blood be shed.’ In discharging it we must beware of transgressing, else we shall be guilty of the worst of all murders, &c., &c.) Consequently, I believe it my duty in such a case to declare that in my opinion the prisoner at the bar should be acquitted.”

The remarks relating to Dr. Worthington in the above report were warranted by the nature of his evidence; any injurious tendency they may have had must have been counteracted by the flattering terms which followed. This publication then cannot be the one of which he complains, it must be that of the *Sherbrooke Gazette*.

Now, this last report is a tissue of coarse mis-statements and misrepresentations from beginning to end, and differs materially from that of the *Pionnier*, not only as regards the Judge's charge, but also as to the rulings of the Court and the evidence of some of the witnesses. In particular, with respect to the Judge's charge, the reporter of the *Gazette* has carefully excluded everything to be found in the *Pionnier* which is at all favorable to Dr. Worthington, aggravated in the grossest manner whatever reflected upon him, and deliberately foisted in what was never uttered.

What renders these discrepancies between the reports of the Judge's charge in these newspapers the more remarkable is, that they all relate to Dr. Worthington, and that the report of the Judge's charge in the *Gazette*, as will appear from the following letter, was prepared from the notes of the *Pionnier*:—

Sherbrooke, August 21st, 1871.

ROBERT SHORT, Esqr., Advocate,
Sherbrooke.

Dear Sir,

In answer to your letter of this day, I beg to say that Mr. Henry B. Brown had the use of the notes which I had taken, during the Judge's charge to the Jury, in the Hill murder case, for the purpose, as he then told me, of preparing his own report of that charge. I am prepared to say also that my report of the charge is accurate and correct, and contains the substance of all that was said about Dr. Worthington.

It contains perhaps two unimportant inaccuracies, which I am now prepared to correct, upon recollecting the words of the learned Judge. The first one is about the anecdote concerning that celebrated judge mentioned in it; the other one occurs in the last paragraph, where his Honor said: "Then let us be on our guard." he also added these words, which are left out in my report: "For the warrant under which we act." &c.

Of course, I do not pretend to say that the report, as published in the *Pionnier*, is a full report of all that was said by the

learned Judge, but I have no hesitation to say that it contains the whole substance of the charge, and is correct and accurate as such.

I remain,

Dear Sir,

Your obedient servant,

L. C. BELANGER,

Co-Editor of the *Pionnier de Sherbrooke*.

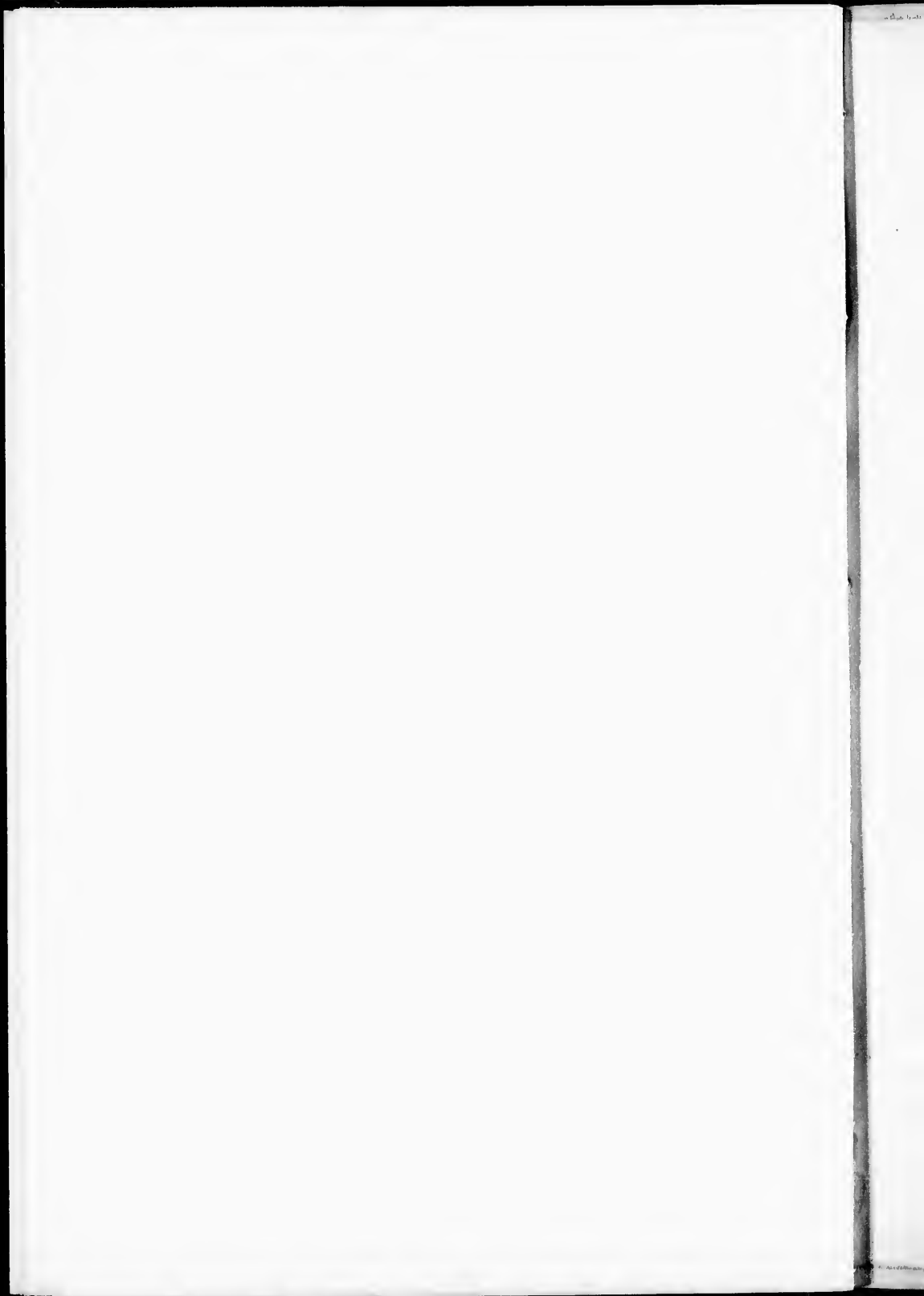
Notwithstanding all this, although the report of the *Pionnier* was much more favorable than that in the *Sherbrooke Gazette*, and that the latter had been prepared from the notes of the former, yet Dr. Worthington with strange perversity ignores the report of the *Pionnier* and adopts that of the *Gazette*, and when this fails him resorts to his own invention or that of some of his friends.

What is still more remarkable is that judge Short had much more reason to complain of the report of the *Gazette* than Dr. Worthington; so much so, that I took the pains to contradict it.

But the most suspicious circumstance of all is that the author of the report of the *Gazette*, which Dr. Worthington pretends was calculated to do him so much harm, was not, as one would naturably suppose, his enemy, but one of his dear friends and admirers. Combining all these facts they conspire to shew that, if there was not complicity and collusion between Dr. Worthington and the reporter of the *Gazette*, there was something very like it; and that the object of the latter was not to injure the former by the report, but to supply him with what he wanted, a grievance—a pretext—an opportunity of gratifying his vanity and vindictive temper, of injuring Judge Short as much as possible, at the same time ventilating his own opinions and advertising his high attainments. Dr. Worthington's conduct before and after the publication of this pamphlet, and the character of that production tend to prove this.

After the delivery of this charge of which he complains, Dr. Worthington, who was then my father's physician and attending my mother, met my father as usual daily, and never shewed by his manner that he felt injured by what had occurred. And my father who felt he had done nothing more than his duty, was not conscious of having given him any just cause for complaint. All this time Dr. Worthington was no doubt working at this Pamphlet. When everything was ready and the train laid, he withdrew. This pamphlet appeared.





Its publication was not confined, as one might reasonably expect, to persons and places to which the *Sherbrooke Gazette* containing the charge complained of extended, but sent to persons and places where and by whom this paper and Dr. Worthington were probably never heard of before. Copies of it were transmitted, I have been credibly informed, throughout the whole Dominion, as far as England, to Ministers, Judges of Canada, &c. The injury to Judge Short, the benefit to himself were made as extensive as possible.

The aim with which he sets out in this pamphlet is only a cloak to conceal his malice, and the manner in which he attempts to accomplish his professed object betrays it. He defends himself by committing in a much more aggravated form, the very thing of which he complains in Judge Short, an unjustifiable attack upon his reputation. Does the degradation of another elevate ourselves? Is recrimination vindication? His mildness and modesty, though they may deceive some, were in reality only a mask assumed in order the better to effect his purpose. When self exaltation was his aim, humility was the best disguise. Besides an injured tone and modest airs enabled him the more easily to secure that sympathy and belief which he sought. But any pretension to modesty or mildness is repelled by his boasting in this pamphlet of advantages and attainments which were never questioned, by its extensive publicity, and by the form itself in which the attack has been embodied. For, if Dr. Worthington be not actuated by insatiable malice and a devouring vanity, why did he not answer this charge in the same manner in which it was published—in the newspapers? If his defence was good, why did he not at once come out boldly, why all this intriguing and careful paving of the way? A newspaper was too ephemeral a publication to suit his purpose; he fancied he had a golden opportunity to immortalize himself under a pretext of self vindication, and he could not resist improving it to the utmost.

Dr. Worthington anticipates this objection by alleging as his reason for not doing so, that the *Sherbrooke Gazette* denied him the use of its columns for that purpose. This excuse however is a little too transparent. Is the *Gazette* the only newspaper in Canada? Would any editor in the Dominion have refused him the right of vindicating his character in a proper manner if injured? I cannot believe it.

The mere exposure of the falseness of the report of the *Gazette* and the suspicious circumstances under which it was made, ought of itself to be a sufficient answer to Dr. Worthington's pamphlet. For Dr. Worthington, as the ground work of this production, takes that report, which being removed, the superstructure built upon it falls to the ground.

I shall not however simply content myself with this, but follow the author of this pamphlet step by step, bitter though the task be, through the details of this case,—acknowledge the truth when I find it and bring my proofs in its support—point out what is false and perverted, and contradict and explain it. And I venture to assert that, if I meet with the impartiality which all the circumstances of this case entitle me to ask, I shall prove to the satisfaction of any unprejudiced person, that the spirit and purpose of Dr. Worthington is not what he represents, but something entirely different; that there was nothing in Judge Short's charge which was not deserved; nothing which could justify Dr. Worthington in taking the malicious course which he has adopted. I shall not make a single assertion on my own authority. I have the best evidence to rely upon—the Judge's notes, the reports of the two newspapers, the *Pionnier* and the *Gazette*, the notes taken for the defence by Mr. Panneton, and the distinct recollection of persons who were present and heard and understood what was said; all of which will bear me out in my assertions.

In commencing his pamphlet, Dr. Worthington complains that Judge Short, in his charge, represented him as “positive, decided and dogmatic, and as having conducted the examination of the body of Mrs. Hill with extreme carelessness.”

Judge Short did say that Dr. Worthington was positive, decided and dogmatic in his opinions, and that he had not conducted the examination of the body of Mrs. Hill with proper care.

These words, positive, decided and dogmatic, are surely neither very offensive nor injurious; even if they were, what proof has Dr. Worthington given that they were unfounded? Undeniably, they were just and deserved. In his evidence, at this trial, Dr. Worthington's positive, decided and dogmatic style and opinions were remarkable. Although he had not seen

the body of this woman until twenty hours after death, yet he pronounced as positively and decidedly that she had been murdered, as if he had witnessed the scene from the beginning to the end. Mary Hill, aged 13, the daughter of the deceased, who was at home on the night of the 14th., when her mother died, and saw and heard everything that was said and done, and without whose knowledge no act of violence could have been committed, testified that her mother met her death by an accidental fall on the cradle and that, when she was dying and conscious of her state, told her this. The evidence of the child was firm, clear and consistent, and not contradicted by that of any other eyewitness, but confirmed on all material points. On the contrary, Dr. Worthington, who had witnessed nothing that took place on the night in question, asseverated that it was utterly impossible that the deceased could have died in any accidental manner whatever, that she must have come to her death by violence, thus contradicting the evidence of an eyewitness and the last words of the deceased.

Dr. Worthington was not only positive as to the manner of the death of the deceased, but was also exceedingly positive as to the weapon used. This, he asserted, was a piece of iron made use of by Hill's family as a poker, or something exactly similar. No trace of blood was discovered on this instrument; Mary Hill testified that it was lying on the stove at the time of the accident, and the only reason given by Dr. Worthington in support of his assertion was, that the instrument in question corresponded exactly with the size of the wounds. A case is related by Beck, in his Medical jurisprudence, which aptly illustrates the danger of medical men pronouncing positively concerning the weapon used solely on the ground of its corresponding with the wounds found on the dead body. A man was murdered by another, called Thom, in 1843, in Maine. The surgeon who examined the body of the deceased found on the premises a pair of iron tongs, with the bow of which one of the wounds of the murdered man corresponded exactly. From this coincidence the surgeon inferred that this or some such instrument was used in the murder. For a similar reason two other surgeons who examined the body agreed that it was caused by some blunt instrument, a brickbat or the like. The criminal, after conviction, confessed that he had used an axe.

Dr. Worthington was also positive as to the dress of the deceased. Her drawers, he said, were arranged in one particular manner and no other, they were buttoned here and there and not elsewhere. How could Dr. Worthington know this? When he saw the body they had been removed.

I may here remark that, for one who knew so little of the affair as Dr. Worthington and had so few materials to work with, the constructive skill he displayed in the manufacture of his theory was astonishing. The minutest detail was not forgotten. There was nothing wanting to make it complete, except a foundation. There was not a spark of evidence in its support.

Dr. Worthington was not only positive and decided, he was also dogmatic. When cross-examined concerning the first wound, the superficial one, and asked whether this wound could not have been caused by a fall on the sharp corner of the bench or cradle lacerating the parts without tearing the dress, he answered that it could not. Yet, Taylor says that considerable laceration of the soft parts of the body and even severe fracture may be caused by a blunt object, without tearing the dress, provided it be of an elastic or yielding material. Being asked whether the same wound could have been caused by a fall pressing the tissues with sudden violence against the edge of the pelvis beneath, which by its resistance produced the cut in question, Dr. Worthington answered that it could not have been caused in this way. Yet, Taylor (M. J. p. 299) remarks that, "when the soft parts of the body are struck and there is a bony surface beneath, a longitudinal rent often appears as a result of the force being received by the bone. A fall on the vulva may produce a similar injury, and unless carefully examined, may lead to the inference that a weapon has been used."

When asked concerning the second wound, the mortal one, whether it could not have been caused by the bursting of a thrombus or sanguinous tumor, Dr. Worthington repudiated the idea as absurd. He admitted however the bare possibility of such a thing, but said he had never seen one in all his practice. Tumors of this kind, he answered, could not be formed in a short time, in a few hours, it would require days for their formation. Yet, Cazcau, Valleix, Velpeau, Nysten, Churchill agree that these tumors do not unfrequently occur in exactly

the same place where the second wound was situated, and that this is a usual seat of these affections. That they often swell rapidly (in a few minutes) to their full size and burst with a suddenly fatal result. Many cases are reported by these authors where, in the process of childbirth, these tumors have formed and burst, and the patient has died undelivered.

Moreover, when questioned whether the instruments produced was not one of those which would inflict a wound by perforation, he admitted that it was. Being then asked whether wounds made by perforating instruments were not always—unless examined immediately after death—smaller than the weapon used, he replied that they were not, but larger. Now, Beck, Bayard, Dupuytren, all concur in this, that wounds made by perforating instruments are always smaller than the arm used, on account of the elasticity and contractibility of the tissues. After many questions like these, in his answers to which he had contradicted some of the best writers on Medical science and Jurisprudence,—Taylor, Beck, Bayard, Churchill, Wilson, Velpeau, Dupuytren, Nysten, &c.,—he was asked if these were not good authorities; some he answered were, others, the french authors, he confessed he had not read. Being then asked if in the works of these writers many cases were related, principles laid down, and opinions expressed in opposition to those he had maintained in his evidence, this circumstance would not shake or induce him to modify his opinions—“*No, it would not; I would believe those writers only in so far as they agreed with me and no further,*” or words to that effect. Here, the Judge interposed and inquired: “Whence do you derive your knowledge?” “*From my twenty-eight years experience,*” answered Dr. Worthington,—thus setting up his own opinions against those of the most celebrated physicians, and extolling his twenty-eight years experience as a higher and more fertile source of knowledge than the writings of some of the ablest authors on Medical science and Jurisprudence.

With regard to the remark which Judge Short made, as to the want of proper care in the examination of the body of Mrs. Hill, this was the only observation that touched at all Dr. Worthington's professional reputation, and referred only to his mode of conducting the *post mortem* examination in this case. I think it will not be denied that, in a trial for murder, where a medical witness appears against the ac-

cused, his evidence should always be founded on a careful examination of the body of the deceased, more especially when such testimony is the only evidence against the prisoner, but above all in a case like the present, where the evidence of a medical man was not merely the only evidence against the accused, but contradicted by eyewitnesses. In these last mentioned cases any want of care on the part of a medical witness deserves censure, for by his evidence alone the life of an innocent man may often be imperiled. Many instances are given in works on Medical Jurisprudence of innocent persons having been convicted and executed on medical evidence, which has afterwards been discovered to be erroneous. In this case, undoubtedly Judge Short had some good reasons for saying that Dr. Worthington had not performed the autopsy with proper care. Respecting this remark, Dr. Worthington sneeringly observes: "For this extremely careless assertion he had the following authority,—this and nothing more. In my evidence at the trial, I said that the Report handed in by me had been written in a hurry &c." This is untrue. What Dr. Worthington said on that occasion was this: in answer to a question whether the swollen and discolored appearance of the right labium was not a sign of a wound by contusion, he said this labium was not swollen and discolored.

The Report before the Coroner's inquest by Dr. Austin and Dr. Worthington was then produced and read. In this Report, which was made under oath, "embodied one statement of facts," and purported to be a correct account of the examination of the body, the following statement appears: "We then examined the external organs of generation and noticed first that they were covered with blood and that the *right labium was swollen and discolored.*" Being called upon to explain this contradiction, he answered that the report containing this statement concerning the swollen and discolored appearance of the labium was written in a hurry and did not express his meaning. This Report, on which these men Hill and Grace were committed for murder, Dr. Worthington admitted was made in a hurry! The statement therein contained as to the swelling and discoloration of the labium, and which afforded a good ground for the theory of the defence, indicating as it did a wound by contusion, Dr. Worthington said he did not mean! This was a very convenient and characteristic way of avoiding the difficulty.

This report he says is not to be confounded with the examination of the body. It purported however to contain the full and correct result of that examination. It was sacramental and not afterwards corrected nor amended. Dr. Worthington's evidence on this point, with reference to the above mentioned statement, is the less excusable because it related to an obvious fact, which must have presented itself to any one examining the genital organs of deceased with ordinary care.

But this was not the only reason, as he has asserted, for the remark Judge Short made in reference to him, concerning his want of care in the examination of the body of the deceased. In his report, a garbled extract of which is quoted in his pamphlet, the second wound is described as *one and a half inches in length and two in depth*. In the report of his evidence, in the *Sherbrooke Gazette*, in the Judge's notes and those of Mr. Pammeton, all of which correspond exactly on this point, this wound is described as *one and a half in length and about two and a half in depth*. In the instances above given, Dr. Worthington contradicted before the Jury his report made before the Coroner, twice:—First, concerning the swelling and discoloration of the labium, and secondly, respecting the size of the second wound. These contradictory statements, if the result of one and the same examination of the body, cannot both be true, one of them must be false. But both statements were made under oath on very material points. It is charitable therefore to conclude that neither is false, but both are true. If both these statements then be true, they must be the result of two different examinations, one before the Report was made and the other after, and one of these examinations must have been conducted with extreme carelessness; for how could two examinations of the same body, unless it had undergone a miraculous change in the interval, have been carefully made with such contrary results?—The one examination presenting a *swollen and discolored* appearance of the labium, the other nothing of the kind; the one disclosing a mortal wound *one and a half inches in length, and two in depth* and the other one inch and a half long and *two inches and a half deep*. The assumption of carelessness, therefore, is the most favourable way of accounting for the above contradictions.

Dr. Worthington, in his pamphlet, asserts that *the periosteum of the bone was torn off*. In his report before the coroner he is

silent on this point, stating simply that "the bone was laid bare for the distance of nearly half an inch." If it be true that the periosteum was torn from the bone, why was not the fact mentioned in his report? It was certainly a most material point and, if true, must have been observed by a surgeon examining the parts with any attention. Yet, Dr. Worthington, at the trial, in answer to the question whether the bone was scratched or marked by the blow, said *it was not, only bare*. How could the periosteum have been torn off the bone without leaving a scratch or mark which a careful examination must have revealed? This inconsistency implies either carelessness or reprehensible forgetfulness on the part of Dr. Worthington. Perhaps, however, he will explain it in the same way in which he accounted for his contradiction of the statement in the Report concerning the swelling and discoloration of the labium,—it was made in a hurry, it was not what he meant. These allegations involved important matters of fact: The one—the *swelling and discoloration of the labium*, was a strong argument in support of the theory of the defence; the other—the *tearing of the periosteum from the bone*, an objection against it; the former Dr. Worthington defeated by saying he did not mean it, the latter he has italicized in his pamphlet, though he did not mention it in his report before the Coroner and said the reverse at the trial. What answer does such—quibbling—shall I term it, deserve?

Several things have been stated as facts by Dr. Worthington in this remarkable pamphlet, which were not mentioned in his evidence before the jury. How has he arrived at the knowledge of these new facts? Has the body of the deceased been exhumed and examined afresh? Have these new ideas been furnished by a capricious memory or a fertile imagination?

Again, Dr. Worthington stated, in his report and in his evidence at the trial, that the pudic artery was cut. When asked whether it was one of the small branches of the pudic artery or the main branch, he answered that it was the main internal pudic. He admitted however that he did not know whether the blood was arterial or venous, and also *that he had not traced back or dissected the vessels*. How then could he assert positively that an artery had been cut, or if he could, that it was the internal pudic?

Lastly, when asked whether the deceased was a person of syphilitic habit, he answered: "In all my experience, I never examined a more healthy body; there was no syphilis or any disease in the organs of generation." Being then asked whether a child with secondary symptoms was not a living proof of syphilis in the mother, he admitted that it was. Now it is a fact that there is a child of the deceased living which, according to two medical men who have seen it, has this disease.

If then Dr. Worthington, when he made the assertion that the body of the deceased was perfectly healthy, told what he believed to be true, he could not have examined this body with care, else some sign of the disease must have appeared.

These were some of the reasons which induced Judge Short to say that Dr. Worthington had not conducted the examination of the body of Mrs. Hill with proper care. I submit to any impartial person whether the above grounds were not sufficient to justify that remark.

Notwithstanding all this, Dr. Worthington complains because Judge Short said he had no confidence in the medical testimony. He represents Judge Short as having said: "Dr. Austin did not agree with Dr. Worthington, the former having testified that the first described wound was an inch and a half in length, and the second, the mortal one, two inches in length, while the latter had sworn that both were of equal length. So far Dr. Worthington is correct, but when he makes such assertions as these—"that the difference pointed out by Judge Short as to the second wound consisted not in the evidence as given but as taken, that it arose from no discrepancy in the evidence of himself and Dr. Austin, but from error in the Judge's notes, in which alone consisted his authority for saying that he and Dr. Austin disagreed,"—Dr. Worthington asserts what he knows to be untrue. The Judge's notes on this point as on all others were correct and in accordance with the best report of his evidence. He did not err nor misunderstand what was intelligible. But Dr. Worthington, in attempting to reconcile the above mentioned contradiction, contradicts Dr. Austin again. For example, referring to the difference between himself and Dr. Austin as to the second wound he says: "Now, this arose from no discrepancy in our evidence, but from a misunderstanding on the part of the Judge, who, in his notes on Dr. Austin's evidence, wrote down two inches in length,

instead of two inches in depth." According to Dr. Worthington, then, the correct statement of Dr. Austin's evidence on this point was that the second wound was two inches in depth not two in length. But in the notes of the Judge, in those of Mr. Panneton and in the report given by the *Gazette*, which last he has approved and certified to be correct, the second wound is described as one and a half inches long and about two and a half inches deep. Dr. Worthington denies that he differs from Dr. Austin to the extent of half an inch, respecting the length of the second wound, yet it appears he differs as much concerning its depth. If the Judge's notes, those of Mr. Panneton and the report of the *Gazette* be good evidence—and what better can be adduced?—then, these medical men have clearly contradicted each other, not only as to the length, but also as to the depth of the mortal wound, Dr. Austin having testified that it was *two inches* in length and *two in depth*, Dr. Worthington having sworn that it was *one and a half* in length and about *two and a half* in depth.

But this difference was not, as asserted by Dr. Worthington, the only one in the evidence of the medical witnesses. Dr. Worthington contradicts Dr. Austin on a very material point already mentioned, namely: *the swelling and discoloration of the right labium*. In his evidence before the Jury, Dr. Austin admitted that the right labium was swollen and discolored, thus agreeing with what he has stated in his report before the Coroner. On the contrary Dr. Worthington in his testimony denied that this was the case, thus contradicting Dr. Austin and also a previous allegation of his own, made under oath, in the same report. And the only reason given for this contradiction by Dr. Worthington was that he did not mean what he had said. If in this report, which he had sworn was correct, Dr. Worthington did not mean what he had himself deliberately written, what better reason is there to believe that he meant what he said before the Jury, what assurance has any one that he means anything he says at all? The difference between these medical witnesses on the point above mentioned was not a disagreement of opinion, but a direct contradiction on an obvious and most important fact.

In the extract given by Dr. Worthington, in his pamphlet, of the report made by him and Dr. Austin before the Coroner, he has purposely excluded the statement concerning the swollen

and discolored appearance of the labium. This—omission shall I call it—on the part of Dr. Worthington, is very significant and “highly suggestive.”

The following extract taken from the original of that report is a little fuller and more correct than that given by Dr. Worthington:

“We then examined the external organs of generation and noticed:

First—that they were covered with blood and that the *right labium was swollen and discolored*;

Secondly—separating the labia, we discovered on the inside a wound of about an inch and a half in length and a quarter of an inch in the deepest part, that deepest part being its centre, the ends of the wounds extending only through the mucous membrane; this wound presented a livid appearance;

Thirdly—An inch from the last described wound and still further within the labia, being just at the entrance of the vagina proper, we observed a second wound, also on the right side, of about *an inch and a half in length and two inches in depth*. This wound extended from its margin passing internally between the right wall of the vagina and the descending ramus of the pubis, but not communicating with the vagina. The wound was full of blood. The finger could be passed readily to the bottom of this wound, which internally presented a pouch shape cavity of considerable extent. Whatever instrument inflicted this wound appeared to have struck with considerable force against the edge of the descending ramus of the pubis, laying the bone bare for a distance of nearly half an inch, then glancing off and passing between the pelvis.

The brain, heart and lungs presented a healthy appearance.

We are of opinion that the deceased, Matilda Watson, came to her death in consequence of hemorrhage from the last described wound and from no other cause, and we are further confirmed in this opinion by an examination of the bed and clothing of the deceased, which were saturated with blood only where they would naturally be exposed to bleeding from a wound in that situation.

F. G. AUSTIN,
E. D. WORTHINGTON.”

After leaving out from his extract of this report the first and most material allegation relating to the examination of the external organs of generation therein contained, Dr. Worthington asserts that "the evidence for the prosecution was strictly in accordance with the above report." Even the garbled and mutilated form in which he has presented this report contradicts his assertion.

Again, Dr. Austin admitted that the first wound, the superficial one, could have been caused by a fall against the cradle; Dr. Worthington denied that this wound could have been produced in any such manner. Moreover, Dr. Austin expressed it as his opinion that the wounds were made by two blows; Dr. Worthington, that they were the effect of one blow. The manner in which Dr. Worthington explained his opinion on this point evinced great originality and profound sagacity. These wounds, he informed the Jury with imposing gravity, were produced by one and the same blow, the poker glancing off the first wound and then inflicting the second. At the same time, he said there was *no line of communication* between these wounds. He also said they inclined transversely to the right of deceased and that the mortal wound was situated about an inch further in to the left of that which was superficial. Now the direction of these wounds indicated the course taken by the weapon when it glanced off the first wound. But this direction was to the right, the instrument then must have glanced off the first wound further out to the right and inflicted the second where none was found, this wound being further in to the left.

This marvellous conclusion reminds me of some other extraordinary paradoxes of this sapient doctor.

At the trial the instrument said to have been used was described by him as smaller than the mortal wound. When asked by Judge Short how this wound could be larger than the diameter of such an instrument, he answered that its extremity was rounded and that the line of the arc being longer than its diameter would for this reason inflict a wound longer than its diameter. This fallacy Judge Short exposed by the following example: take for instance a knife with a rounded extremity like the instrument in question, thrust it into any soft substance, say a piece of beef, then if Dr. Worthington's hypothesis be correct the orifice produced by it will be com-

mensurate with the line of the arc, not the diameter; but the reverse is obviously the fact.

Again, speaking of the instrument Dr. Worthington said "it fitted both wounds exactly;" yet these wounds, as I have already shewn, differed in size and shape not only from the instrument, but also from each other.

What profound sagacity do some of the theories of this learned doctor on examination disclose! Truly the manner in which he solves "intricate difficulties in Medical Jurisprudence" is astounding. Certainly he reflects immense credit on his former masters. His boasted silver medal was a paltry prize for one so distinguished. Such a brilliant luminary moving in so extensive an orbit must eclipse all other lights in medico-legal science.

The contradictions, inconsistencies and fallacies above mention will afford some idea of the nature of the medical testimony for the prosecution. What confidence could Judge Short repose in evidence of such a character?

Having with infinite pains patched up his own theory, Dr. Worthington attacks that of the defence. His manner of doing this is peculiarly his own. He fabricates a theory which was never broached nor for a moment entertained, makes the Judge and medical witnesses talk nonsense, and then triumphantly refutes it all. He represents the defence as having adopted two theories concerning the cause of the mortal wound; one the bursting of a varix; the other, accident. This is false. There was but one theory and this was—that the mortal wound was the effect of the bursting of a thrombus or sanguinous tumor, caused by an accidental fall on the corner or rocker of the cradle.

Assuming as the basis of this theory that clause in the medical report of Drs. Austin and Worthington respecting the swelling and discoloration of the right labium, which indicated a contused wound, and in confirmation of this the evidence of Mary Hill who swore that her mother fell on the cradle, it was suggested by the defence that the first wound, the superficial one, might have been caused by a fall directly on this body, or by the sudden and violent pressure of the tissues between the corner or rocker of the cradle and the edge of the descending ramus of the pubis, the latter cutting them. As to the second, the mortal wound, it was urged that it might have

been occasioned in the following manner:—when the deceased fell, many of the deeper seated blood vessels, which abound where this wound was situated, were ruptured by the fall, the blood being extravasated into the surrounding tissue formed rapidly into a thrombus or sanguinous tumor. The action of the deceased in rising to go for the doctor from the bed where she had gone to lie down after the accident, disturbed this tumor which now had attained a large size; it burst and the fatal hemorrhage ensued which caused her death.

This hypothesis was founded upon the concurring testimony of Drs. Paré and Paget, supported by some of the highest authorities in Medical science. A reference to these authorities which are given at length by Dr. Paré, in his theory attached to this pamphlet, will convince, I think, any unprejudiced person that the theory of the defence was not so wild and extravagant as Dr. Worthington would lead people to believe.

Dr. Worthington has made several objections to this theory, which I have no doubt he believed irresistible. But the theory which he has represented as that of the defence and which he has with such apparent vigour attacked, was not the theory of the defence at all but one of his own creation. That the mortal wound was caused by the bursting of a varix, was never for a moment pretended. The only mention of varices in connection with the theory of the defence was that they were a predisposing cause of a sanguinous tumor. The objections of this candid doctor are therefore irrelevant. They display however such novelty, depth and originality, that the attention of the public should be drawn to them.

The first in importance of these objections, and no doubt in the opinion of Dr. Worthington the strongest, is his ignorance and inexperience of such a thing as a varix in the labium. He says: "In a practice of 28 years in the country, I have never seen a varix in the labium—never." To those who have not such an exalted opinion of Dr. Worthington as he has of himself, this objection may not appear very formidable, his knowledge and experience would not perhaps be a fair or satisfactory criterion. Notwithstanding his 28 years experience and other boasted advantages I know several medical gentlemen who have been only a few years in practice, and yet have met during that time several cases of varices in that situation. For instance, Dr. Paré, who has only been in practice about

eight years, saw a varix in the labium of deceased some five years ago, and had another case of this kind very recently. I know also of another young physician who has not practice as long as Dr. Paré and has met with three cases of varices in the labia, one of which he is now attending, the other two he saw when a student in an hospital. Does not this prove what Judge Short said that a young man may see more in a city in a few years than an older physician in twenty-eight years practice in the country.

In opposition to Dr. Worthington's experience on this point many high authorities might be quoted. The following, I think, are sufficient. Churchill, page 579, remarks "that the veins of the labium and the parts about the origin of the vagina and vaginal canal do become varicose and occasion considerable inconvenience, every one knows"—except Dr. Worthington.

But it may be answered that the objection founded on the rarity of varices in the labia applies with greater force to the existence of a thrombus in that situation. It is true, I believe, that such affections are rare, but they are infinitely less rare than the other circumstances of this case. I am ignorant of a single case like the Hill case in the criminal annals of this country and only three or four similar are reported in the Books. On the contrary, many instances of thrombus are to be found in the writings of the best medical authorities, especially in those of the French authors, and Dr. Paget testified that he had met several cases of tumor of this kind in his practice.

In his masterly digression on the subject of varices in the labia, Dr. Worthington observes: "as varicose veins are always superficial, external force will burst them laterally and internal force externally." If Nysten be a reliable authority varices are not always superficial: "Far from being rare, deep seated varices are more common than those which are subcutaneous. The real original seat of dilatation (flebectasie) resides in the deep seated veins. It is from these that the distension arises and is propagated to the subcutaneous vessels," (p. 1188). Besides would it not depend upon the direction of the force whether a varix burst laterally or otherwise? If a varix were pressed laterally between two bodies, would an external rent down the middle be an impossible result? Is even force always

necessary to cause the rupture of a varicose vein? Is the spontaneous bursting of a varix an impossibility? On this point, Druit, (p. 319), says: "Sometimes veins become exceedingly thin and burst, causing a profuse or even fatal hemorrhage."

Again, Dr. Worthington remarks: "surely, if death was caused by bleeding from a distended vein, that vein would have been seen. Judge Short said no, when the vein was emptied of its blood it would be impossible to see it." Dr. Worthington's version of what Judge Short said on this point is garbled. The Judge's remark was as follows:—"In a case like the present, where death was caused by hemorrhage, and according to the evidence of the medical men for the prosecution there was not a teaspoonful of blood in the body of the deceased, would it not have been extremely difficult, when the veins were empty, for Dr. Worthington to see them as they were in their former state, and to pronounce positively that there were no varicose veins there?" And the familiar illustration Judge Short used to elucidate his meaning was this:—"Let your hand fall and remain in a perpendicular position for a short time, the veins swell and distend; raise it, the blood retreats and the veins do not now appear swollen and distended as they were." Is not this just and reasonable? But the truth does not suit Dr. Worthington; it deprives him of that which misrepresentation affords—an opportunity to ridicule Judge Short and at the same time introduce that elegant and poetical simile about a sack of potatoes. Even this comparison tells against him. How could even Dr. Worthington say from the empty appearance of a sack that it was before full? But supposing for a moment that Judge Short had said that it would have been impossible to see distended veins, he would have been supported by M. Velpeau. This great physician in discriminating, the varicose state of the veins and the inflammation of lymphatic vessels remarks that the existence of the former is often, to be ascertained only by touch the latter by sight, thereby implying that varicose veins are not always visible. So true is it that vessels when empty cannot always be seen after death, physicians often inject liquid in order to bring them in to view.

Again Dr. Worthington objects: "I would ask then is it possible that the deceased in falling could have received wounds of such a fearful character as to cause death retaining con-

sciousness enough to know that she stood in need of God's mercy and of medical aid, and yet remaining ignorant of the existence of these wounds believing only that she was bleeding to death from flooding." If, as suggested by the defence, the death of the deceased was caused by hemorrhage from the bursting of a sanguinous tumor, might not the deceased, though conscious, have been ignorant of its existence when such a celebrated physician as Dr. Worthington in twenty-eight years practice never met with a single case of such an affection?

There is a remark made by Dr. Worthington in the form of an objection and which I confess I do not understand. It is this: "It appears to me that any body being a right angle to cause a wound two inches in depth must make an orifice externally of at least four inches in length." If this erudite doctor's aim in making this observation is to shew that he has read the 47th. Prop. of Euclid, Bk. 1., he can be understood; otherwise this remark is like the rest, ostentatious and wholly irrelevant. It was never even dreamt that the fatal wound was caused by the corner of the cradle penetrating the body several inches. The theory of the defence concerning this wound has been already given.

The nature of the preceding objections which I have presumed to criticize proves that Dr. Worthington has not shown even the capacity to understand the theory of the defence, much less to refute it.

Not satisfied with having misrepresented this theory, the learned doctor will not even allow that it was original. He refers to the Barsham murder case which is noticed in a number of the "London Lancet," August 1870, as that from which the theory of the defence was borrowed. To this assertion I have simply to answer—that before any report of the above case had been seen the theory in Hill's case had been decided upon. It was entirely original and any credit due to its conception belongs to Dr. Paré. The theory and the circumstances in the Barsham case were entirely different from that in which Andrew Hill was concerned. In fact these cases resemble each other in nothing except the situation of the wounds. The same remark may be applied to those other cases which are cited by Dr. Worthington in his pamphlet. Any one who will consult the reports of these cases can easily satisfy themselves on this point.

In all of them there was, apart from the medical testimony, good substantial evidence against the accused. In the Hill case, besides the medical testimony, there was not a scintilla of evidence against the prisoner, but on the contrary the best adduced by the crown, that of eye-witnesses, was in his favor. Indeed the only proof at all that a murder had been committed was that given by Dr. Worthington. How far did this testimony extend? Simply to this length—that the deceased died by violence; as to the hand that perpetrated the deed, it was silent. Apart from this evidence, supposing for a moment, for the sake of argument, that it was reliable, what was there to connect the prisoner Hill with the crime it attempted to establish? Nothing but that vague threat which Mrs. Shores, the sister of deceased, testified that Hill had used some time before the death of his wife. Admitting this threat to be true, how did it point to the way in which the deceased should die? Could the murder of a wife by her husband, at six o'clock in the evening, in the presence of her children and her pretended paramour, be the execution of such a threat as this:—"I will put a stop to her drinking before long, in a way that wont be known?" What better way could he have chosen if he had wished to be discovered? It is very remarkable that nothing about this threat was said or even hinted at by Mrs. Shores in her evidence before the Coroner's Jury. The excessive emotion of this woman and the fact of her having sworn positively yet incorrectly to a circumstance which she must have recollected, were calculated to throw discredit on her testimony. I have no intention of ridiculing the feelings Mrs. Shores displayed for the death of her sister Mrs. Hill, but I cannot help saying the demonstrations of sorrow made by this woman in the witness box were so extraordinary as to suggest the suspicion to any observer that they were not genuine.

The circumstance to which this woman deposed may appear unimportant; but it is by eliciting contradictions on points apparently trifling that the evidence of a witness is often impugned and overthrown. In all the leading features of a story a witness is prepared and can though untruthful be consistent. Judge Short did not accuse this woman of perjury as asserted by this doctor. His remark was: "This woman is either mistaken or she has committed perjury," and it was certainly justified. For an incorrect statement made under oath is either

intentional or unintentional. If intentional it is perjury, if unintentional a mistake. So far was Judge Short from accusing this woman of perjury, he used language which implied the reverse. For adopting the most favourable alternative he said: "This woman has been mistaken on an important point, she may be so as to this threat." Even supposing the Judge had made this remark, how is Mrs. Shores concerned in the vindication of Dr. Worthington's professional reputation? Why does he waste a page of his precious Pamphlet in making a jeremiad over her? He evidently needs support, and embraces indiscriminately every thing that can supply his want and bolster up his attack against Judge Short. Besides there are peculiar reasons which render it advisable to conciliate this woman and enlist her on his side: *Hinc lacrymæ*—Hence all these tears.

But any suspicion which the threat in question might have excited against the prisoner is repelled by his behaviour after the death of his wife. None of the usual signs of guilt were shown. There was no attempt at flight—none to stifle inquiry or to avert suspicion. On the contrary the moment danger appeared, he sent Grace for the doctor and his daughter for the nearest neighbour, being so crippled by frozen feet that he could not go himself. Even if no neighbour had been called in, was this omission remarkably suspicious? In a case where death was so sudden and rapid was it unnatural that such a step was not taken immediately? In cases of alarming and pressing necessity do we always preserve our presence of mind and act as we should? The fact also of Hill not explaining to Dr. Worthington the cause of his wife's death in a satisfactory manner was not very strange. He told all he knew and he knew nothing but what he had heard from his daughter. The cause of the death was as mysterious to him as to others.

The only presumption remaining against the prisoner was the unusual situation of the wound. To those who unlike Dr. Worthington will acknowledge that there are some things beyond their comprehension this objection is not material. Often, the effect of accident seems the result of the nicest design.

Theorizing however on this matter is idle. We have the evidence of Mary Hill who saw and heard all that was said and done on the night of the 14th. She testified that on the

evening of this day she was in the house with her mother, while Hill, Grace and her younger sister were outside; that in rising with the baby in her arms from the cradle where she had been sitting, her mother fell forward against the bench in front and then backward upon the cradle. Upon her daughter exclaiming "Now you have hurt the baby" she answered: "It is not the baby but myself who is hurt, if it were not trying to save the baby I should not be hurt." She then got up, put her hand under her dress and said: I am bleeding to death, tell your father to come in quickly. She walked to her bed, lay down, and soon afterwards died. In her last moments when, as her daughter expressed it, she was praying for herself saying: "God have mercy on my soul," in answer to a question how she had hurt herself, deceased said: "on the cradle." The account which this witness gave of the death of the deceased at the trial was the same which she related before the Coroner and that which she gave to her aunt Mrs. Shores, a few hours after her mother's death. Her evidence was confirmed on all important points by John Grace, another witness present, and remains unshaken and entire. It must therefore be admitted, if not, on what grounds should it be rejected? I can conceive only these,—that though present she did not witness the supposed murder, or that she saw all and from affection for her father, the prisoner, concealed the truth.

Now, if present, it is impossible that her mother could have been murdered without her knowledge. Hill's house was a small log hut, not much bigger than a large room partitioned off by boards into three rooms. There were doorways but no doors, except at the entrance to the kitchen from without, and the windows were secured. The bedroom of deceased was to the right as you entered. How could any one have come into the house even in the stealthiest manner and murdered the deceased without being seen or heard by this witness?

It is equally impossible that this child could have witnessed the murder of her mother and attempted to conceal the truth and so well succeeded. It is true that she was the daughter of prisoner, but she was also the daughter of the deceased. Her tender age, the character of her testimony and her manner of giving it repel such supposition. The child might have been terrified into a momentary silence by her father; but as soon as all fear of him was removed by his confinement and she

had found an asylum in the house of the sister of her mother where she could unbosom herself with safety, and every artifice no doubt was used to induce her to do so, when concealment was difficult and painful, confession a safe and easy relief, is it not extremely improbable that she would still have persisted in such an unnatural and elaborate lie? I think, therefore, this child's evidence must be received as true. If so, then the medical testimony of the prosecution must be rejected, because it is directly contradictory to it.

Moreover, if this woman had been murdered, it is probable that Dr. Austin who saw the body very soon after death would have seen something to excite suspicion; but he admitted in his evidence that he did not suspect any foul play. Mrs. Shores, the sister of deceased, who came soon after Dr. Austin left, also admitted that she had no suspicion that her sister had been murdered. Twenty hours after, during which ample time had been afforded for concealing every trace of guilt, if there was any, and inventing some credible account of the manner of the death of deceased. Dr. Worthington who knew nothing of what had happened but that which he had learnt from Dr. Austin, appeared on the scene, immediately a most atrocious murder was discovered. I may here remark that this is not the first time Dr. Worthington deserves the merit of having found out what had escaped other medical men; his fondness and faculty for startling discoveries are notorious.

The body was examined, an inquest held and a report handed in by Drs. Worthington and Austin, in which it was asserted that the deceased had died by violence. Hill and Grace were apprehended as the murderers. The preliminary examination was conducted before the Coroner at which several hundred people were present. Hill and his two daughters, one 13, the other 9 years old, Grace, Mrs. Shores, Drs. Worthington and Austin and several others were examined. The account given by Hill and his daughters and by Grace of the affair was clear, consistent, similar, and was related with such an air of truthfulness, that some who had previously believed a murder had been committed entirely changed their opinion. As to the testimony of Mrs. Shores on that occasion, there was not a word about that threat which she afterwards spoke of at the trial. I have been informed by a gentleman who was present when she was examined before the Coroner's Jury that few of the ma-

ny who heard her testimony had much confidence in what she said, and for the same reason as that which induced Judge Short to make the remark with which Dr. Worthington has reproached him—I mean her excessive emotion. Eight of the Coroner's Jury were of opinion that the death of deceased was accidental, the other twelve that it was the result of violence, some of whom had no other reason for their verdict than a desire for a more thorough investigation of the matter.

Let any one for a moment weigh and contrast the evidence for the prosecution and the defence. For the prosecution the only evidence was the opinion of Drs. Worthington and Austin which was conflicting, unreliable and in opposition to two other medical men equally able and more competent, and also to the highest authorities in Medical science and Jurisprudence. For the defence, there was the evidence of Drs. Paré and Paget, consistent, similar and supported by some of the ablest physicians and writers on forensic medicine, founded on the concurring testimony of eye-witnesses, that of John Grace corroborated by Mary Hill, and sealed by the dying words of the deceased.

In commenting on the evidence for the prosecution in his charge, Dr. Worthington represents Judge Short as having said : “—Gentlemen of the Jury, Dr. Worthington tells you the woman must have been in the act of infidelity” and adds : “ It is not a little remarkable that such a theory was never advanced or even suggested by the Crown Counsel or the medical witnesses.” This is untrue. Dr. Worthington's name was not mentioned in any such connection. In his charge, Judge Short said that the theory of the prosecution was that the deceased had been caught in the act of infidelity and that it was under these circumstances that the wounds were inflicted by Hill. This remark of Judge Short was appropriate and called for, and expressed the opinion entertained by all or almost all on this point who believed that Hill was the supposed murderer, by one at least, if not both of the medical witnesses for the prosecution and I believe by the Crown Counsel himself. Either the prosecution had no theory at all or this was the one. What other theory consistent with the evidence for the Crown was conceivable ? What was the drift of M. Brooks' questions which ought to disclose the existence of jealousy between Hill and

Grace? What did the medical evidence concerning the situation of the wounds, the position of the deceased, the instrument, and other circumstances relative to the manner of the death,—all imply and suggest? It proclaimed the theory in question as clearly as by express words. This theory might not have been openly advanced because there was no proof in its support. And it was of the last importance that a belief so prevalent yet groundless should not be allowed to take possession of the minds of the Jury. For if this theory was once admitted, then the existence of a motive would appear and a link connecting the prisoner with the alleged murder, forged. No theory could suggest a more violent provocation than the discovery by a husband of his wife in an act of adultery. It was a matter therefore of great importance that the minds of the Jury should be disabused of any such idea and this was the reason why Judge Short took the pains to shew its extreme improbability.

Again Dr. Worthington makes Judge Short speak as follows: "Want of education is a barrier to the acquirement of medical knowledge and length of practice is of secondary consideration," and further: "Dr. Worthington tells you, gentlemen, that in a practice of twenty-eight years he never saw a varix; on the other hand, here is a medical gentleman who tells you that they are of frequent occurrence, that he has seen them in his own practice repeatedly. This, gentlemen, is another proof of how necessary education is to the acquirement of medical knowledge and how one man being educated may learn more in three years in a city than another man in twenty-eight years in the country."

"But then, gentlemen of the Jury, Dr. Worthington is, after all, a mere country practitioner."

A few words of this quotation are true, the rest, especially the last lines, are false and perverted. The only remarks Judge Short made at all resembling these were as follows. In analyzing the medical evidence for the prosecution and defence he said:

"In estimating the testimony of medical witnesses, experience is not the only thing to be considered. In medicine as in sciences, skill and knowledge are derived—not only from practice and experience, but also, from the study of good authors. A physician's opportunities for observation must also be

taken into consideration. A young man may see more variety in a city in three years than an older practitioner in twenty eight years in the country. Dr. Worthington has great talents, but he is liable to err and may sometimes be mistaken. In opposition to the medical witnesses for the prosecution, we have gentlemen equally capable and more competent. For Dr. Worthington tells you that he has not met in his twenty-eight years practice with one single case of thrombus. Whereas the medical men for the defence have seen such cases and have told us, supported by the best authorities, that tumors of this kind are not unfrequent in females, and Dr. Paré has testified that he had observed varicose veins on the body of the deceased some years ago. This proves that though Dr. Worthington possesses abilities and experience there are some 'things which are not dreamt of in his philosophy.'

From these remarks this candid and modest Doctor has carefully selected everything which by the most perverse interpretation reflected upon him, wilfully overlooking all that was favorable. It serves his purpose to say that Judge Short characterized him as an uneducated country practitioner. It furnished him with a handle for a smart retort and at the same time a pretext for informing the public of the following very important and interesting intelligence—that he is a person of extraordinary attainments,—that he was not born with a silver spoon in his mouth, that he has been in a city and in the old country,—that he was a pupil of Dr. Douglas and awarded a silver Medal for Medical jurisprudence some thirty years ago by certain eminent but unnamed personages.

That Doctor Worthington was not "born with a silver spoon in his mouth" is a fact that was never contradicted. For this he has no reason to complain; though fortune may have denied him abundance of silver and gold, nature has compensated him with a rich supply of a metal now a days as highly esteemed—brass. As to those advantages of which Dr. Worthington makes such a parade, admitting them to be true, what do they prove? Has the mantle of Dr. Douglas and the other celebrated men he mentions fallen upon him? Many a schoolboy could make a similar boast—that he had won prizes and received the instruction of able men. Does this learned doctor forget the calf that sucked from two cows and became only—a bigger calf in consequence. If Dr. Worthington really be a person of

such high attainments as he professes, what is the necessity of publishing this fact? Surely the public are capable of finding it out of themselves. Perhaps however some of his intimate acquaintance have not yet made this discovery; he is therefore excusable in adopting this mode of advertising. While indulging with such complacency in these remarks concerning himself, why did he not entertain the public with an account of some of those cases in which he has so brilliantly displayed "his professional attainments?" For instance, that late affair of *W. C. Drew vs B. Bullard and John H. Peck** just reported, in which he made such a laudable attempt to distinguish himself and won such unexpected renown; or some of his recent discoveries in medical jurisprudence,—how often he has solved any of its "intricate difficulties" to the satisfaction of any one but himself—how often he has been a witness for the Crown in trials for murder and how often, when the case for the prosecution depended in any way on his evidence, the Jury have given a verdict in accordance with it? Even supposing Judge Short had called this eminent doctor a mere country practitioner, what else has he been for the last twenty-eight years? What prospect is there of his being anything more considerable as long as he lives?

Having furnished himself by the language above quoted with what he conceives to be a good pretext for insulting Judge Short, Dr. Worthington launches out into the most elaborate sarcasm ridiculing him as incompetent and as having made mistakes, etc. In answer to this, I have simply to say that several medical gentlemen who, in the opinion of many, are superior to Dr. Worthington were present when Judge Short delivered his charge, and I have their authority for asserting that all the judge's comments on the medical evidence were just and accurate and in unison with the best writers on Medical science. The reverse might be truly said of the evidence of Dr. Worthington. Indeed his opinions were so different from anything to be found in these writers, so original, so profound that they certainly deserve to be published in a more ambitious and enduring shape than a pamphlet form, and he entitled to the position of a teacher or oracle in that science. I might

*An extract of a report of this case, in which Dr. Worthington figured so conspicuously, will be found in the Appendix of this pamphlet.

borrow his own language and recommend all persons who desire to acquire new ideas in medical jurisprudence to repair thither and place themselves under the tutorship of this medico-legal star. In his twenty-eight years experience they will find an inexhaustible mine of medico-legal knowledge different from anything to be found in the text books extant on that science. The novelty and originalty of his notions would justify him in imitating some of those ancient philosophers who the moment they acquired new ideas founded a school, gave it a high sounding name and published a few leading doctrines to allure followers. This is a step which I am sure would suit the inventive genius of this enterprising doctor. It might appropriately be styled "The Pythagoreo-Worthingtoneo-Cabalistic Sect." Some of its dogmas will probably be--Tolerate no superior--Discard modesty and reserve--Cultivate impudence and buffoonery--Learn to advance the rankest nonsense with as firm an air of assurance as if it were the soundest sense--Become notorious at any cost.

Dr. Worthington thus continues: "After allowing the most extraordinary questions to be put to me by Mr. Robert Short, the counsel for the defence, such as: Did you not form a theory before you saw the body? Did you not make the circumstances suit the theory? Are you not in the habit of doing so, &c.?" To be noticed even unfavorably by a person so distinguished as Dr. Worthington is an honor which demands some acknowledgement. It is true that I did ask some such questions as these, but I would not have put them to any other medical man. My reason for asking even him these questions was a conversation concerning the death of Mrs. Hill shortly after the post-mortem examination, from which I inferred that the moment he saw the poker and before seeing the body he suspected foul play &c., &c. Until the above questions had been asked and answered I had no reason to believe that I had mistaken his meaning. As soon afterwards as an opportunity offered I expressed my regret for having used words which appeared so much to disconcert and offend him. He seemed to be satisfied and I thought it was forgotten; for it is usual, I believe, where an offence is given and apology offered and accepted, no further mention is made of the matter. The ideas of this doctor on this point are however peculiar. When I made this apology, I did so

under the momentary impression that he had some claim to be treated like a gentleman, I now avail myself of this opportunity to apologize for that mistake. Besides this question did not insinuate that Dr. Worthington had made the wounds—there was no doubt on the part of the defence that these wounds existed before he had examined the body. The worst suggested was that in the excitement of the discovery of these wounds he might have, in attempting to ascertain whether the poker fitted them, slightly altered their size and shape unintentionally and unconsciously of course. Dr. Worthington's language relating to these questions which he has taken such pains to select and expose implies that in questions like these with variations the whole of the cross-examination consisted, and that the Judge neglected his duty in allowing them to be asked. The instance just given is not the only one in which Dr. Worthington makes use of me in order to strengthen his attack on Judge Short. In referring to the strictures he asserts Judge Short passed upon him he remarks: "There was this consolation that every person present knew the why and the wherefore of the attack" and again: "The prisoner did not require it and the imagination is left to fix on the real object of his sympathy," meaning I presume me. In another place I am described as an object of "unworthy partiality" and further, referring to two cases reported by Mr. Watson, he says: "Fortunately for Society they were not tried before Judge Short." The most obvious interpretation of which all this is susceptible is that Judge Short from an unworthy partiality towards me, attacked Dr. Worthington in an unjustifiable manner and that the prisoner though guilty escaped in consequence. It is impossible to conceive a more atrocious calumny than this. In support of this charge no evidence has been nor can be given.

On what ground partiality can be imputed as the cause of Judge Short's remarks respecting Dr. Worthington, it is hard to conceive. The only reason I can imagine is this—That I was so sorely discomfited and exposed by his repartees in cross-examination that two days after, though I had never complained and was unconscious of the fact, Judge Short attacked Dr. Worthington in an unjustifiable manner. This seems to me very farfetched and absurd. Whatever may be the opinion of Dr. Worthington and his friends as to the result of the cross-examination, it did not in the mind of

some redound much to his credit or reputation. It is not a little surprising that it never occurred to Dr. Worthington that the true cause for the remarks of which he complains was the inconsistencies, fallacies and inaccuracies in his evidence. However obvious this might appear to others, it would I presume be unreasonable to expect that such an idea should for a moment dawn upon one who has been a pupil of Dr. Douglas, decorated with a silver medal for Medical Jurisprudence and had twenty eight years experience. The mere possibility of a mistake or error to such a personage is a notion too absurd and improbable to be for a moment entertained. As Dr. Worthington has not adduced any proof in support of his insinuation as to the reasons of the Judge's charge, I will take the liberty of giving a few of his terrible effective answers to some of the "extraordinary questions" I presumed to ask him. For instance, one of Dr. Worthington's first answers under cross-examination was a positive statement on a very material point directly contradictory to one he had previously made under oath. Some of his other answers contained the most contemptuous contradictions to authorities who are regarded with the greatest respect by the ablest physicians? But the most remarkable replies of this facetious doctor and which I have no doubt he believes contributed so much to my discomfiture were the following. In illustrating some remarks concerning the nature of the instrument used he said:—"If my lips were closed and I received a blow upon them they would both be injured," this suggested the following question:—"If one of your lips were struck by the closed hand for instance, would it not exhibit a swollen and discolored appearance on the outside and a cut in the inside as a result of its pressure against the teeth?" "It might."—"Does not this external swelling and discoloration of the right labium and the cut on the inside indicate that these effects might have been produced in a similar manner by a blow from a bruising body pressing the parts against the edge of the pelvis underneath?" Dr. Worthington answered—"There were no teeth there!!" He could not deny that in this case the effects were exactly similar and that the cause might be so too, but he could not admit it, without contradicting himself, for he had already said that the wound could not have been caused by a fall on the cradle pressing the parts against the bone beneath, the latter cutting them. He

avoided the difficulty by this characteristic witticism. Again, when asked whether a thrombus could not have been caused by a fall on the cradle, Dr. Worthington answered :—" What, Sir, do you mean by a thrombus?" On this question being repeated he said : " Oh you are looking at the cradle." In answer to another question Dr. Worthington putting his hand to his face and turning with an air of mock deference to Dr. Paré said in a distinct voice, " What, Sir, is the technical name for cl—p," as if he did not know it.

I have given here fully and fairly all those answers of Dr. Worthington which contributed so much to my discomfiture and his satisfaction. Were they so terribly severe and confounding? Were they not on the contrary indecent, evasive, savoring of buffoonery, and disgusting—unfitting the sanctity of the place and the solemnity of the occasion, and disgraceful in one of his age and profession? With what propriety could a witness who conducted himself in this way claim the protection of the Court? Did he not on the contrary merit the severest censure?

If Judge Short leaned at all towards the defence in this case, it was solely on account of the prisoner, who certainly stood in greater need and was more deserving of protection than Dr. Worthington. I have the best authority for asserting that if Judge Short had not believed that the life of the accused was endangered by Dr. Worthington's evidence and at the same time had not been thoroughly convinced of his innocence, he would simply have glanced at this Doctor's evidence and summed up in a few words. He did not know the truth which I have since ascertained, that the jury had made up their minds to acquit immediately after the examination of Dr. Worthington and before a word was said on behalf of the defence and two days previous to the delivery of his charge. If Dr. Worthington had heard some of the gentlemen of this jury, who are as intelligent as himself, commenting on his evidence after the trial as others heard them, he would have found their remarks less flattering than Judge Short's. Notwithstanding his positive testimony there are proofs which tend to shew that how firmly, soever persuaded he may have been that a murder had been committed, he did not believe Andrew Hill guilty of the crime. For instance he said at the trial : " I have known the prisoner for the last twenty years and I never knew a more

harmless and inoffensive man." Again in the beginning of his pamphlet, referring to the cause of the Judge's charge, he says: "There was no necessity for any unusual effort, the prisoner certainly did not require it." Lastly, in a conversation with the prisoner's daughter *before she gave her evidence for the Crown* he used language which evidently implied he did not believe Andrew Hill was the supposed murderer. Of this conversation the following is the child's account:—

Mary Hill being duly sworn doth depose and say :

"I am the daughter of Andrew Hill and I have been a witness for the Crown in the case of my father.

I was going up to the Court House for my father's trial with my aunt Mrs. Shores. We passed by Dr. Worthington's place. My aunt went into the house to get some medicine from the doctor, I stopped at the door, when doctor called me in. I went into his office with my aunt. *It was after the Grand Jury had found a true bill against my father and before I gave my testimony to the Court.* The Doctor asked me how my mother fell. I answered she fell on the cradle. He asked if she got up, I said yes and she went to the window and then went into the bed. He asked me if my father and Grace were in the house when she fell, I said no. In answer to many questions I said she (my mother) went to the table, the blood was from the cradle to the window, they were large spots of blood, there was blood in the bed room. He said the woman never could go to bed after getting the wounds with the poker.

Then he said you need not try to make me believe that at all, because it is no such thing and if you don't tell the truth *you shall go to gaol and be punished.* He asked me if I was afraid anything should happen to my father and told me *the worst to him would be that he should be in gaol for a year and Grace would be sent to penitentiary or be hung.* Then my aunt went out and as I was going out with her he told me to stop. I stopped. Then he said like a good girl make up your mind to tell the truth, if you don't tell the truth *you shall go to gaol.* I said I had told the truth, he said it was no use for me to try to make him believe such a thing as that. Then he told me to go. And further deponent saith not and declares she does not sign her name.

her
MARY x HILL,
mark

Sworn before me, this 22nd day of May 1871. }

J. A. ARCHAMBAULT, Com. S. C. }

Witnessed by and read to the witness in the presence of
W. R. JOHNSON."

All this proves that Dr. Worthington believed there was no evidence against the prisoner. And yet in his pamphlet he has used language which proclaims directly the reverse.

These words in the affidavit—"Tell the truth, my dear child, &c., evidently mean this—say with me that your mother was murdered or you shall go to gaol and be punished, don't let any fear for your father restrain you, &c., &c. Now suppose for a moment, what is extremely probable, that this young girl, like other children, had been influenced more by these threats of gaol and punishment than by her regard for the truth, what would have been the consequence? Undoubtedly this: her father would have been hung, on the false testimony of his own daughter. But then Dr. Worthington's theory would have been preserved, his great reputation slightly enhanced. Such conduct as this deserves exposure at least.

Referring to that solitary question by M. Brooks to Dr. Paré, the first witness for the defence, concerning the bursting of a varix, Dr. Worthington remarks: "Judge Short decided that this most fair and proper question could not be put to the witness." This is false. This question was asked and answered twice. It was only when an answer different from that which had been given was insisted upon by Mr. Brooks for the third time that the Judge interposed and decided that the answer was sufficient. Upon some discussion ensuing on the ruling of the Court Judge Short said: "This trial in which the life of a human being is at stake shall not be allowed to degenerate into a duel between medical men." From the by-play that was going on when this question was asked, and the manner in which he introduces it in his pamphlet I have no doubt Dr. Worthington had a hand in its manufacture. He has scarcely written it when he bursts out in its praise, like a hen that lays an egg and then cackles over it as if she had done something great and mankind should know it. What after all was this wonderful question? It was wholly irrelevant. That the wounds were caused by the bursting of a varix was an idea that never for a moment entered into the theory of the defence. With what propriety then could such a question be asked or insisted upon.

It is true Mr. Brooks did not ask any more questions nor cross-examine any other of the witnesses of the defence. It was prudent in him to abstain. A cross-examination of

these witnesses would only have had the effect of bringing out more strongly the case for the defence and exposing the weakness of that of the prosecution. It is true also that Mr. Brooks declined to address the Jury. What materials had the evidence furnished for a reply? Besides I heard from good authority that Mr. Brooks had abandoned any intention he may have had of doing this in an early stage of the case. But it is untrue as asserted by Dr. Worthington that Mr. Brooks was compelled to adopt any of these proceedings. He was left free and untrammelled to manage this case like all others—as he saw fit. His conduct in this case was no more extraordinary than in similar cases where the proof fails as for instance in the matter of *The Queen vs. Bean &c., &c.*

Dr. Worthington not satisfied with having intermeddled with the above legal question further dogmatizes upon the rulings of the Court. He asserts that he has been informed by *good authority* that the Judge's allowing the prisoners to sever in their defence was *at least unusual* and that his admitting Grace as a witness on behalf of Hill was not only unprecedented, but contrary to all precedent and adds that these are mistakes to be charitably attributed to a country practitioner.

All the rulings of Judge Short in the course of this trial were in perfect accordance with precedent, principle and authority. With regard to severance of defence, to grant it is purely discretionary in the Court. When the circumstances of the case justify it, consent to an application of this kind is not unfrequently given. Archbold, vol. 1 page 319. Within the last eighteen months, there have been two cases, besides the Hill case, in which severance of defence was allowed upon the application of an old and experience lawyer. *The Queen vs. Wilbur & Stowe* and the *Queen vs. Clément & St. Jacques*.

As to the admission of Grace as a witness on behalf of his associate Hill, while the charge against him was pending, in one of the cases above mentioned, the *Queen vs. Clement and St. Jacques*, and in another, *The Queen vs. Deguire et al*, this proceeding was allowed. Woolrych, in his *Criminal Law*, page 182, vol. 1, treating of the evidence of accomplices, remarks:—
“An accomplice may also appear for the Defendants. Two persons were charged with house-breaking, one pleaded guilty but sentence was not passed—and since this statute (6 and 7 Vic.), this makes no difference—the other went to trial and desired

that his fellow prisoner might appear as a witness on his behalf, and the judge allowed his request."—*Rex vs. George, Rex vs. Archer*. Russell, page 967-68, Phillipps, page 30, vol. 1, Roscoe, Hale P. C., &c., agree that an accomplice is a competent witness for his co-defendants when they are separately indicted. Now, when Grace had severed in his defence, was not his position practically the same as if he had been charged in a separate indictment? But perhaps Dr. Worthington's authority in legal science is like himself in medicine, superior to the best authors, and considers his experience the gauge of what is law and what is not. In attempting to convict Judge Short of ignorance, this learned doctor only exposes his own and that of his legal adviser.

Judge Short did not lay it down as a general rule that an accomplice was always a competent witness on behalf of his co-partners, but simply that Grace might testify under the circumstances of this case, which were so peculiar as to justify a deviation from the ordinary course. And in overruling Mr. Brooks' objection, the Judge reminded him of what he had said in his opening address to the Jury. This was somewhat as follows:—"Gentlemen of the Jury, I have summoned here every witness that can throw any light upon this case, and I intend to conduct it with perfect fairness throughout." Here was a witness, John Grace, who could supply what the Crown so much desired,—light. Why should he not have been allowed to give it?

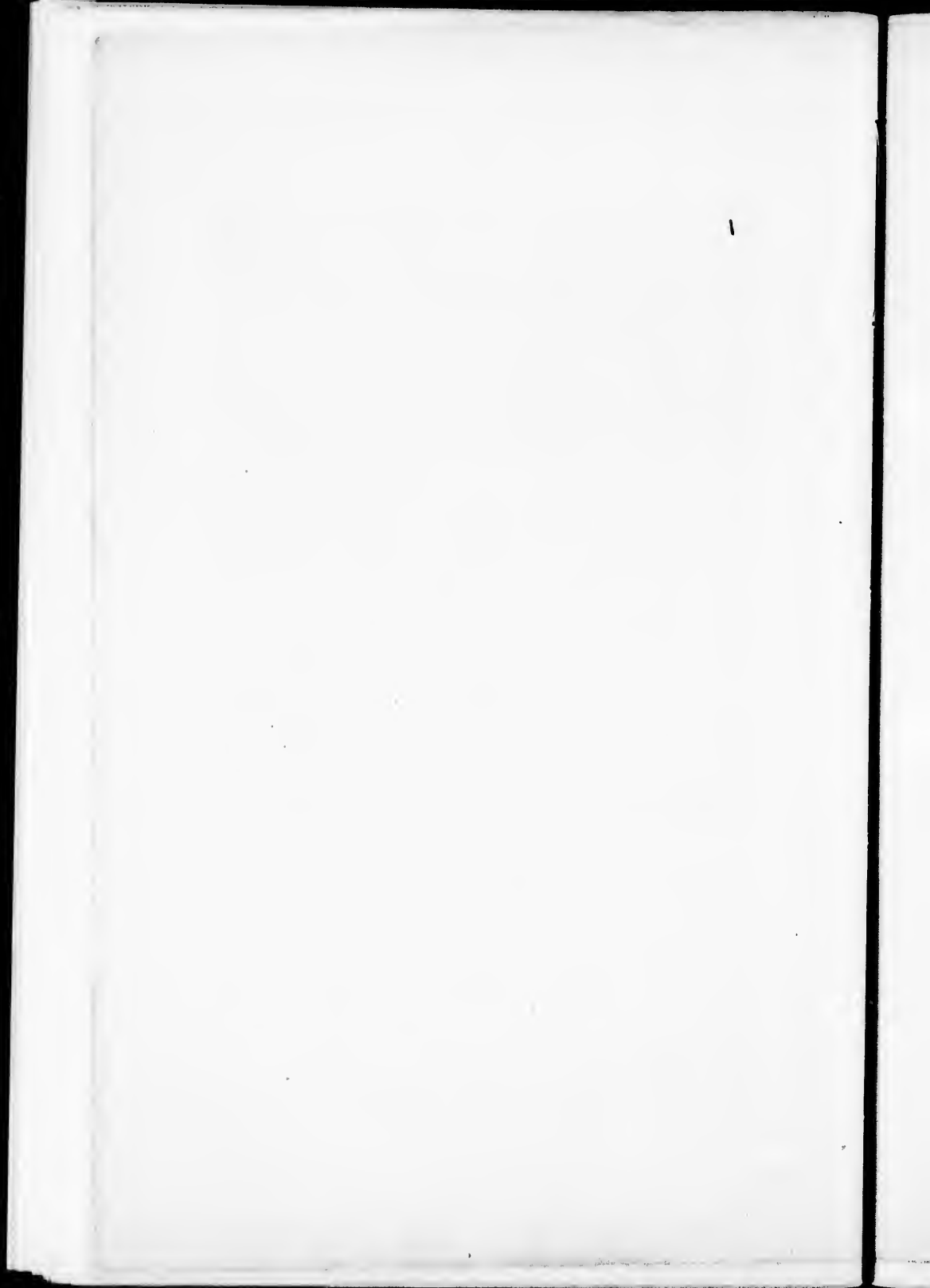
Another remark taken at random from this pamphlet of Dr. Worthington will serve to prove the spirit and purpose of its author. Referring to the position of the deceased, he says: "She was on her back with her knees extended or as Judge Short insisted *distended*,—I was under the impression at that moment that it was I and not Judge Short who was giving evidence, and being under that impression wished to give my evidence in my own words. This is not the only instance of the Judge's unwillingness to take down evidence in the exact words of a witness, or of his *perverting* a witness evidence." A charge so grave as this, the perversion by a Judge of the evidence of a witness, must be founded on very strong and important reasons. What is the ground on which Dr. Worthington makes this insolent assertion? Only this: In describing the position of the body of the deceased, Dr. Worthington said:

"The deceased was lying on her back with her legs extended when she received the wounds." Judge Short asked: Do you mean that her legs were spread apart? "Yes," answered Dr. Worthington. "Then," replied the Judge, "*distended*, not *extended*, is the proper word." "I prefer," rejoined Dr. Worthington, "*extended*." "Do you then mean *spread apart*?" "I do." Then the matter was compromised by putting down "*spread apart*." Here Dr. Worthington will have the word *extended* written to express *spread apart* instead of the word *distended*, although the latter expressed his meaning and the former did not. On referring to certain unabridged dictionaries, which I believe are as good authority as Dr. Worthington on this point, I find that the word *distend* means to *spread apart*, and *extend*, to *carry forward in a straight line*. Dr. Worthington attempts to correct himself by saying that the knees, not the legs, were extended. How does this mend the matter? Though the knees were extended, the legs might be close together, the wounds could not have been inflicted in the way he described, and another contradiction would emerge. On this absurdly frivolous ground Dr. Worthington asserts that Judge Short perverted *his evidence*. What perversion was there in what Judge Short said? He simply presumed to remark "*distend*" expressed better *spread apart* than the word *extend*. Does not all this prove that Dr. Worthington is positive, decided and dogmatic, and also that his object is not to vindicate himself or disprove anything said regarding him, but to vilify and injure my father as much as possible on the slightest pretexts?

In concluding his Pamphlet, Dr. Worthington describes this trial as an exhibition of the most amusing character. He speaks of stage effects, &c. With the exception of Dr. Worthington and perhaps a few of his friends, all present were impressed with the solemnity of the occasion. If any farcical representation were to be made of the matter, this doctor would certainly be entitled to the most prominent place.

To sum up, what are the grounds of this querulous Doctor's complaint against Judge Short? Only these: In his charge, in this trial, the Judge, in analyzing Dr. Worthington's evidence, said, that he was positive, decided and dogmatic, and that he had not conducted the examination of the body of

Mrs. Hill with proper care. At the same time he characterized him as a man of talent. I think I have furnished satisfactory proof that all these remarks of the Judge, *except the last*, were just and deserved; indeed, I venture to say that, if Judge Short's animadversions had been much more severe, they would have been warranted by this Doctor's conduct throughout the whole of this affair. For instance, his treatment of the prisoner's daughter before she gave her evidence; his indecent levity in the witness-box, the *contradictions and fallacies* in his evidence; his disrespect for authority, etc. I would, moreover, ask any impartial person to consider the character of this Pamphlet, its professed aim—vindication, which is in reality only *vindictiveness*; his affectation of mildness and modesty, when self-conceit and malice come up in every page; his base attempt to rob an old man, when dying, of that which was dearer to him than his life—his reputation—and answer whether such a one deserves shelter from his Order or from Society? Is such behaviour calculated to lower or elevate the profession to which he belongs? Can it be applauded? If so, then, none are safe. Any one, who has the misfortune to lose a near relation by a mysterious death, is liable to be indicted for murder; his family distressed; the Government put to vast expense, and the whole affair turn out—a bubble. Then a witness may speak and act as he pleases in any of Her Majesty's Courts, and if a Judge presume to comment on his evidence and accidentally wound his vanity, he shall be exposed to public contempt and obloquy; the administration of justice weakened, and Society itself shaken to its foundation.



APPENDIX.

MEDICAL THEORY OF THE DEFENCE IN THE HILL CASE,

By F. PARÉ, M. D.

To the Editors of the *Canada Medical Journal*.

Gentlemen,

In No. 11 of your journal, published in May last, you describe as wild and extravagant, the theory adopted by the medical witnesses for the defence in the trial of Andrew Hill, for murder.

As you have evidently given this opinion without sufficiently informing yourselves of the nature of the theory adopted and the other evidence adduced on the trial, I deem it my duty to furnish you with the reasons which induced me to depose, that in my opinion the cause of death of Hill's wife was the bursting of a thrombus, or sanguinous tumour.

I will first cite from the evidence of the Daughter of the deceased what is essential in elucidating the case and then the report of the medical men as given before the Coroner and Court of Queens Bench.

I will next explain the theory adopted by me and furnish my reasons and authorities in support of its adoption. If after perusing these you still find my theory "wild and extravagant" I hope you will be kind enough to give some reason in support of your opinion.

By doing so you will much oblige,

Your Obt. Servt.,

FREDERIC PARÉ,

Licentiate in medicine.

EVIDENCE OF MARY E. HILL.

I am the daughter of Andrew Hill, I am 13 years old. I was alone in the house with my mother when the accident happened ; my mother was sitting in the cradle with the baby in her arms. She got up and pitched forward against the bench and then fell backward on the floor behind the cradle. She lay there some minutes and then got up, and ran towards the bed.

When she got up from the floor. I said "you have hurt the baby" and she said no, it is myself that is hurt. She put her hand inside her dress and told me to tell papa to come in quick as she was bleeding to death. She tripped on the rocker of the cradle which caused her fall.

She told me that she had hurt herself on the corner of the bench and that she got her other hurt by falling with her bottom on the rocker of the cradle. When she fell she cried out "O Dear! O Dear! My mother told Grace to go quickly after the doctor as she had hurt herself and was bleeding to death. When the doctor arrived she was dead.

EVIDENCE OF DRs. WORTHINGTON AND AUSTIN.

We examined the external organs of generation and noticed : First, that they were covered with blood, and that the right labium was swollen and discolored. Second, separating the labia we discovered on the inside of the right labium a wound of about an inch and a half in length, and a quarter of an inch in its deepest part, that deepest part being in its center, the ends of the wounds extending only through the mucous membrane. The mucous membrane around this wound presented a livid appearance. Third, one inch from the last described wound and still further within the labia, being just at the entrance of the vagina proper, we observed a second wound, also on the right side, of above an inch and a half in length, and two inches in depth.

This wound extended from its margin passing internally between the right wall of the vagina and the descending ramus of the pubis, but not communicating with the vagina.

The wound was full of blood, the finger could be passed readily to the bottom of this wound, which internally presented a pouch shaped cavity of considerable extent.

Whatever instrument inflicted this wound appeared to have struck with considerable force against the edge of the descending ramus of the pubis, laying the bone bare for a distance of nearly half an inch, then glancing off and passing between the pubis.

Dr. Worthington cross-examined.—I think that the wounds described might have been inflicted by the iron instrument now shown to me, I fitted it this morning to both wounds and it fitted them exactly. I do not think that these wounds could

have been inflicted by falling against the bench as they were internal wounds. I think her clothes must have been up when she received the wounds. The wounds were not inflicted through the clothes, or they would have been cut or torn. I do not think that deceased received the wounds accidentally but by violence. When asked if the periosteum of the bone was not scratched or the bone fractured, the answer was it was not, the bone was only bare.

Dr. Austin, said : The edges of the two wounds were cleanly cut as if they had been made by a sharp instrument. The first wound particularly was so cleanly cut that I am obliged to use the fingers to open the edges of the wound in order to see it.

The mucous membrane around the second wound was livid. The second wound, the mortal one, was separated from the vagina, only by the membrane of the vagina, but did not communicate with the vagina.

Mary Hill, daughter of the deceased, states in her evidence that her mother got hurt by falling. It is very *probable* that she received contusions in her fall.

The Physicians called by the Coroner to examine the body, at the time of the Inquest,—say : We examined the external organs of generation and noticed first, that they were covered with blood and that the right labium was swollen and discolored. Taylor, in his treatise on medical Jurisprudence says, page 213 and 214 : Contusions and contused wounds are commonly accompanied by a discoloration of the surrounding skin, to which the term ecchymosis is applied.

If the contusion has been caused some time before death, there will be swelling of the part. Owing to such swelling and discoloration on the external surface of the right labium, it is probable that there was a contusion.

The Physicians, continuing their examination say : Second, separating the labia we discovered, on the inside of the right labium a wound of about an inch and a half in length and a quarter of an inch in its deepest part, &c., &c. The second wound of about an inch and a half in length and two inches in depth and I dont think that these wounds could have been inflicted by the bench, as they were internal wounds.

The wounds were not inflicted through the clothes, or they would have been cut or torn. I dont think that deceased received the wounds accidentally but by violence.

Taylor, page 221, says : "Contused wounds by bludgeons, or other blunt instruments, may be readily produced through the dress without tearing or injuring it. Considerable laceration of the skin and muscle and even severe fractures may be caused without necessarily penetrating the dress, supposing it to be of an elastic or yielding nature." The clothes of the deceased being ample and of a strong texture, it is probable

that she received her wounds in falling without having her dress torn.

Taylor, page 299 says: "Contused wounds on the female genitals may prove fatal by the laceration of parts leading to great loss of blood. Several trials of manslaughter have taken place, in which this was proved to have been the cause of death. A contused wound on the vulva may occasionally present in ambiguous appearance and be mistaken for an *incised wound*. When the soft parts of the body are struck by a blow or kick if there is a bony surface beneath a longitudinal rent, may appear as a result of the force being received by the bone.

A kick on the vulva, or a fall on this part, may produce a similar injury, and unless carefully examined may lead to the inference that a weapon has been used for its production." When deceased fell the weight of her body pressed the labia between the descending ramus of the pubis and the hard body upon which she fell, either the cradle or the bench. And deceased fell the more violently as she could not protect herself with her hands, in which she held her child. Which explains her saying after she had got up, that, if the child had not been in her arms, she should not have been hurt. It is quite possible that the pressure of the labia between the descending ramus of the pubis and the hard body may have produced the ecchymosis, that is, the swelling and lividity noticed on the external surface of the labia; that it may have been the cause of the first described wound and that it may also have been the cause of a thrombus in the vulva and vagina.

Beck page 15, treating of contusions says: Ecchymosis is present whenever the contusion is sufficiently violent to induce the rupture of a blood vessel, and the natural result is to communicate a color more or less livid. When the quantity of blood is large, it is called "a thrombus."

Here, it is necessary to give the description of a disease which, although rare, has nevertheless often been met with, that is, the disease called thrombus or sanguinous tumours in the vulva and vagina.

In the No. CXXII of the *American Journal of the Medical Sciences*. A critic of the *Traité Clinique et pratique des maladies puerperales suites des couches, publié à Paris en 1870, par le docteur Hervieux, medecin de la maternité*, says: "The chapters for instance in Dr. Hervieux's work upon "Thrombus of the Vulva and Vagina" and upon "sudden death during Labour" subjects upon which so little is to be found in our own language, are especially interesting and valuable."

Many more cases of this disease have been met with among pregnant women either during or after childbirth, than in those who are not, for the very good reason, no doubt, that childbirth is of a much frequent occurrence than accident. Authors who have quoted cases of this disease in women that have

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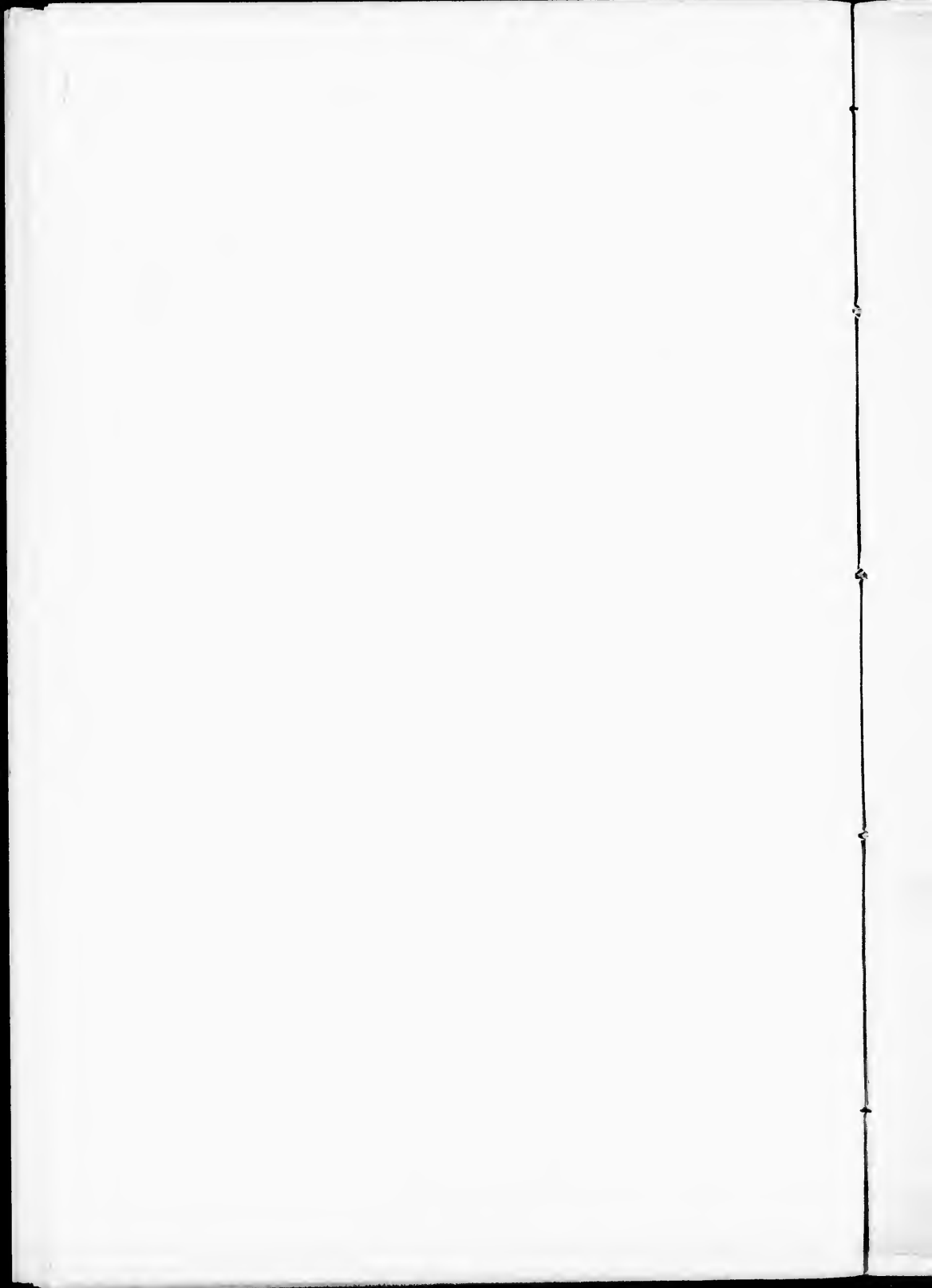
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been delivered of a child have noticed that, as a general rule the labor had been more prompt and easy which goes to show that in those women there was what is called "Idiosyncrasy" or disposition for such disease. The cases quoted by Churchill and Cazeaux are cases of thrombus which occurred in women after their delivery.

Velpeau, who is considered as an authority, shows that these tumors are nearly as frequent in women who are not pregnant as in those who are.

Valleix, in his treatise "Guide of the medical practitioner," vol. 5, page 27, speaking of sanguinous tumors, thrombus in the vulva and vagina, says: "The venous and arterial system annexed to the vagina and external genital parts is extremely rich and is exposed to frequent congestions owing to two distinct causes: menstruation and pregnancy. The mechanism varies in both instances, at the time of menstruation it is an active congestion, during which the repletion of the veins and the turgescency of the parts prevail, the latter being facilitated by the laxity of the cellular texture; During pregnancy, it is rather a passive arrest brought on by a difficulty in the returning circulation, and the cause of which is to be found in the development of the uterus.

These two modes of congestion are even found in some manner through the varicose state of the deeper veins, and also of the smaller superficial veins.

Now, it may readily be conceived that veins so distended, relaxed, and perhaps rendered thinner, may break spontaneously or under the influence of external violence, exactly the same as varicose veins of the lower limbs. Hence hemorrhages more or less considerable may occur in the deep seated tissues of the vulva, or the walls of vagina, which only differ from the per-uterine hemorrhages by their location, the latter taking place in the peritoneal cavity, but under the influence of identical causes. The first physicians who noticed sanguinous tumors in the genital parts have only considered them in connection with pregnancy and childbirth, but Professor Velpeau has since shown that these tumors are often independent of pregnancy, and nearly as frequent among women who are not pregnant as in those who are.

M. Velpeau quotes thirty cases in his own practice, and he says that he noticed six of them in the course of one year. In cases when the uterus is empty it has always been observed that external violence has been the cause, a kick or a blow against the angle of a table, chair &c., &c.

The nature of these causes gives us to understand that there may be simultaneously an external and internal wound. The empoverishment of the blood is a predisposing cause. Distension and the varicose state of the veins on the genital organs is a predisposing cause of the greatest importance. In a case of

delivery there is no external violence, but it is very clear that the child's head performs the part of a blunt instrument by bruising the walls of the vagina and vulva. The most usual seat of thrombus is the internal part of the labia. It is not rare to see a thrombus occupying at the same time both the vagina and the vulva. When it occupies the vagina it is often found on the lateral parts. The tumour often presents a livid appearance and becomes complicated with hemorrhage by the rupture of its membranes; when the tumour is ruptured soon after its formation, the hemorrhage may be uncontrollable and unlimited.

Churchill, page 569, says, in his excellent and elaborate address delivered the 21 July, 1837, Mr. Cross remarks: "In no branch of midwifery have more contributions been furnished within the recent period to which I refer, than in respect to certain varices attaining an enormous size and bursting, so as to form sanguinous extravasation into the labia or the cellular texture of the pelvis and vagina, often with suddenly fatal result." Dr. F. Ramsbotham has published five cases, two of the right labium and three of the left, which occurred after labor and opened spontaneously. There was a good deal of hemorrhage; but all recovered well, after removing the clots. It does not require either a difficult or a tedious labor for its production; in many cases the labor has been short and easy. More frequently the tumour appears after the labour.

From this brief summary it appears that although the occurrence is rare, it is by no means so uncommon as at first supposed. This disease which consists of an effusion of blood into the cellular tissue may effect one or both labia and may extend into the pelvis.

Mr. Cross regards the tumors as the result of a rupture of vaginal varices. That the veins of the labia, the parts about the origin of *vagina and the vaginal canal, do become varicose and occasion considerable inconvenience every one knows.* Mr. Stendal relates a case in which the tumour burst during labour and he states that between six or seven pounds of blood were lost; the patient fainted and expired.

Three fatal cases are given in the *Med. Chir. Review* and Mr. Cross of Norwich met with one in which, during labour, rupture of the left labia took place to the extent of *two or three inches*, followed by great loss of blood, and the patient died undelivered.

Cazeaux, page 612: "In the thrombus, the labia becomes swollen and rapidly distended, and forms a tumour more or less considerable. In some instances, the quantity of effused blood is such that the patient loses her strength and faints.

This tumour sometimes attains instantaneously its full size. It may confine itself to the external parts or stretch deeply into the pelvis and even as far as the iliac fossa. When the cellular texture is torn off, the tumour is fluctuating

the mucous membrane gradually made thinner ends by bursting and then follows a flow of blood more or less considerable. This hemorrhage may be in such abundance as to cause death in a very short time.

Nysten, in his article on thrombus, says: "The name of bloody tumours, or thrombus of the vulva and vagina, is given to tumours constituted by blood infiltrated or effused in the lamellar tissue of those organs. Thrombus most often affects the external labia, it has also been observed in the (internal) labia, but rarely. The diagnosis of bloody tumours on the vulva is generally easy. In fact, the sudden appearance of a tumour preceded by a sharp pain, the continuous and progressive increase of that tumour, often an obviously determining cause (blows, falls, violent efforts, &c.) are so many circumstances which throw light upon the diagnosis. These bloody tumours of the vulva and vagina sometimes end by bursting. When the hemorrhage occurs, owing to the bursting of the pouch and of some large vessels, death may ensue after a few hours, and even after a few minutes."

Wilson, *Human Anatomy*, page 354, says: "The veins which form the uterine plexus surrounding the vagina are peculiarly subjected to the production of calcareous concretions termed "phlebolites," such is the name given to the calcareous concretion found inside of some varicose veins. Nysten, on varices: Far from being rare, deep varices are more common than subcutaneous ones. The real primitive seat of the phlebectasie (dilatation of a vein) lies in the deeper veins. It is in these that dilatation arises and hence spreads into the subcutaneous veins."

I have been the Hill family Physician for many years. Five years ago. I attended the deceased in her confinement, and then observed varices on the veins of the external labia. It was the first time in my practice that I noticed varicose veins in these parts. The presence of varices on the veins of the labia indicates that the veins on the walls of the vagina are varicose. For, according to Nysten, the real primitive seat of phlebectasie lies in the deeper veins.

One of the physicians says in his cross-examination: "The ends of the two wounds were clearly cut, as if they had been made by a sharp instrument. The first wound particularly was so cleanly cut that I was obliged to open the edges of the wound with my fingers, in order to see this wound. The instrument produced as the one presumed to have made these wounds is $1\frac{1}{2}$ inch wide and $\frac{1}{4}$ of an inch in thickness. That instrument is what we call a perforating instrument."

In a wound made by a perforating instrument. In the *Medical Jurisprudence*, by Bayard, page 60, Dupuytren and Samson tell us: "There is distension first and then tearing. The wound is smaller than the instrument used owing to the elasticity of

the tissues. The wound bear the character of the instrument, in its appearance. The wound is of the same diameter as the instrument only in the bones.

Bayard, Medical Jurisprudence, page 60, tells us that, in wound inflicted with perforating instrument, "the solution of continuity is, in general shorter than the length of the instrument, and it present more diastasis or separation than the depth of the instrument. When the instrument is only sharp on one of its edges, a knife for instance, the obtuse extremity formed by the back of the blade, may be distinguished from the acute extremity produced by the edge."

If the back of a knife blade, in inflicting a wound, make a dull extremity to that wound, the instrument produced and said to have inflicted the wound described, which is one fourth of an inch thick and which is several times thicker than a knife blade, ought not to have made the two wounds with extremities cleanly cut, my own opinion is that an instrument, which is rounded at the end, could not inflict a wound half an inch deeper at the middle than on the edges, and inflict another wider at the bottom than at the mouth having the form of a pouch of considerable size at the bottom. Besides which the two wounds are wider than the instrument. From what Dupuytren, Samson and Bayard say, the two wounds described must have been inflicted by two instruments different in their shape and their width. The first wound does not bear the character of one made by a sharp instrument, nor the character of a wound made by a perforating instrument. On the contrary, it has much more the appearance of a wound made by contusion.

There is the lividness and the swelling without and the cut within the labia. Also, one of the physicians has admitted that this first wound may have been made by contusion.

Well, now the contusion, which has made this wound, has been such as to rupture the veins, especially if they were varicose, and the blood, which came out of these varicose veins, has formed a thrombus which afterwards burst and brought on the hemorrhage which caused the death of Mathilda Watson the deceased. The other physician has said that the two wounds have been inflicted by one and the same blow. After making the first wound, the instrument slid off and then made the second wound.

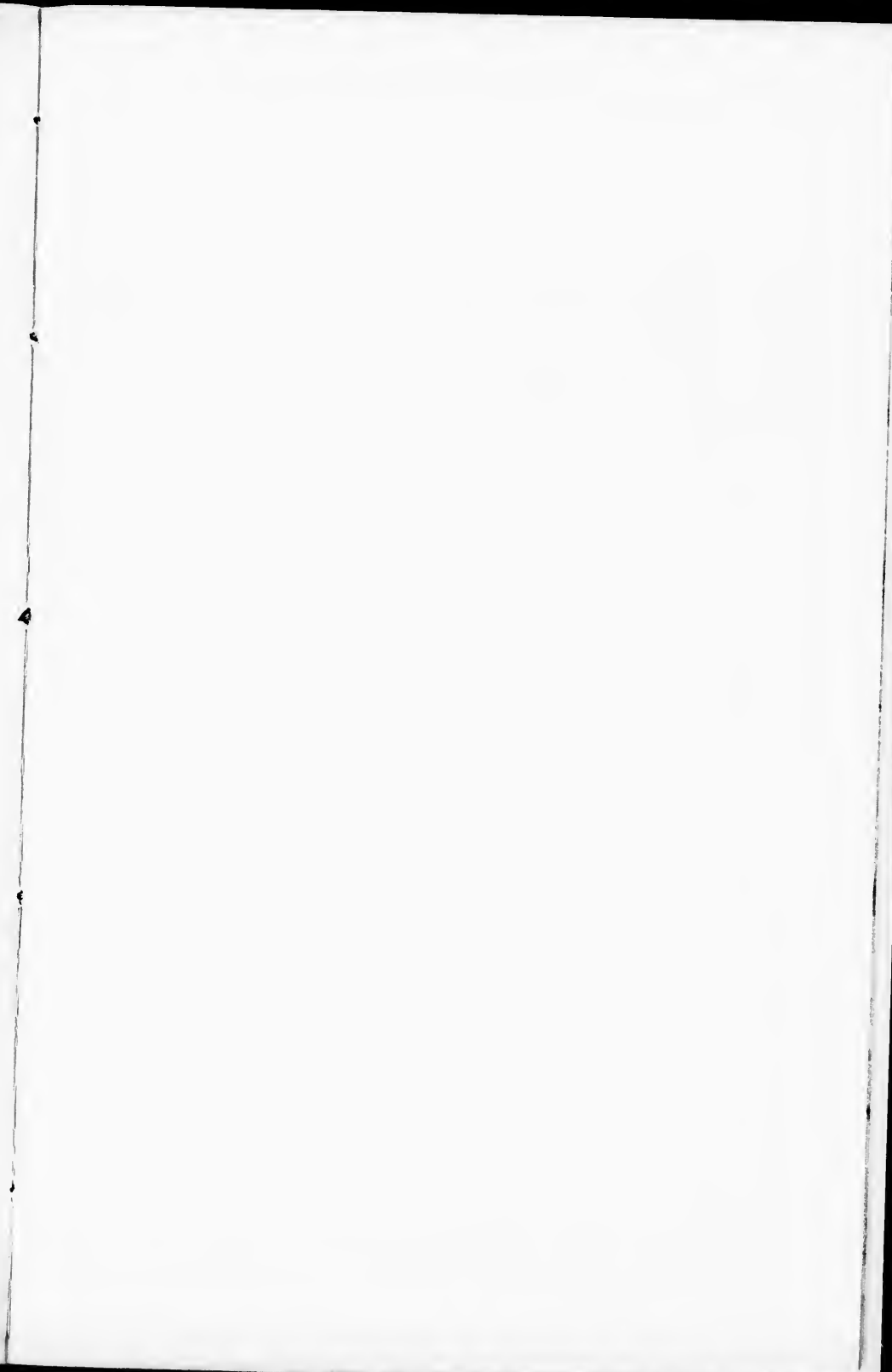
We observe by the evidence that the first wound is smaller at the bottom; and the second wound is larger at the bottom, of the shape of a pouch, and of considerable size. How therefore can the two have been inflicted by the same instrument. And is it not much more probable that the pouch shape wound of considerable size, was caused by the blood escaping from a ruptured blood vessel or vessels.

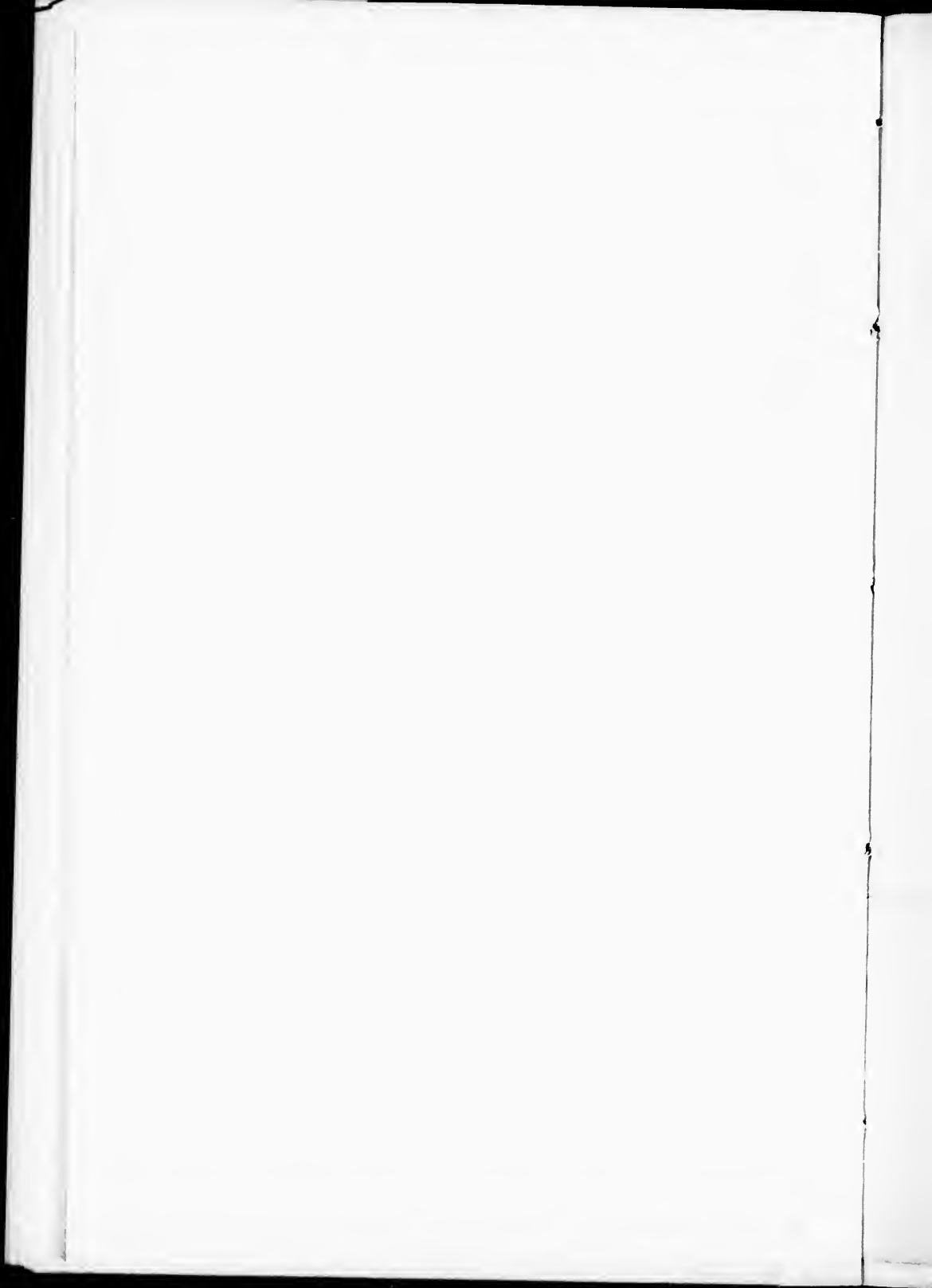
It is proved, by the evidence of Mary Hill, that the deceased,

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her mother, has fallen with the lower part of her body on the corner of the cradle and that she hurt herself in falling. The swelling and the lividness on the external surface of the labia, that is the ecchymosis of the labia, indicating that there has been contusion of that part, corroborate the evidence of the little girl.

According to Taylor, a kick on the vulva, or a fall on that part of the body, may produce a longitudinal rent which resembles a wound inflicted by an instrument.

It is probable that the deceased received the first described wound in falling, because in falling the weight of her body caused the labia to be pressed between the edge of the descending ramus of the pubis and the body on which she fell. The result of such a pressure has been the rent on the internal surface, described as being the first wound. According to Velpeau, a kick, a blow on the angle of a table or chair, are determining causes of the thrombus and the varicose veins of the labia and the empoverishment of the blood predisposing causes. It is probable that the deceased upon falling on the corner of the cradle, received a contusion sufficient to rupture the veins which form the uterine plexus, which is on the side parts of the vagina. The blood effused in those parts then formed the thrombus. Besides, the lividness observed around the second wound, according to Valleix is almost always noticed around the thrombus.

The clots of blood in the wound having the shape of a pouch and of considerable size, are also found, according to Ramsbotham, in thrombus of the vulva and of the vagina. The direction of the second wound, which follows up the vagina, without however communicating with it, indicating that this wound is found when the uterine venous plexus is, causes the presence of a thrombus to be presumed.

Further more, there are two predisposing causes the presence of varicose veins on the labia, which I noticed myself on April 1866, and the thinness of the whole body as ascertained by the two physicians. This thinness indicates the empoverishment of the blood, which I think was caused by the constitutional syphilis. For in October, November and December 1866. I gave the deceased prescriptions to treat primary symptoms of that disease. In May, June, and August, 1870. I gave her other syphilitic prescriptions for the child which she was then suckling and which was only a few months old. On the body of this child I have seen the syphilitic erythema.

The existence of the secondary symptoms of syphilis on the body of a child at the breast must be sufficient to show that its mother was laboring under constitutional syphilis. On account of these predisposing and determining causes, I come to the conclusion that, not only it is possible but that it is very probable that the fall, which the deceased had on the corner

of the cradle or the bench, has been sufficient to cause the first wound as described, and bring on the thrombus of the vulva and vagina. The thrombus afterwards burst spontaneously, or in the movements which she made whilst she was lying on her bed. The rupture of the thrombus produced the hemorrhage which caused her death.

MALPRACTICE TRIAL.

W. C. DREW vs. G. B. BULLARD AND JOHN PECK.

In this case, which took place recently, in St. Johnsbury, Vermont, Dr. Worthington gave evidence against two confères, the Defendants. The following is an extract of a Report of this trial and contains Dr. Worthington's cross-examination.

EDWARD D. WORTHINGTON, M. D. M. A., one of the Governor of the College of physician and Surgeon L. C. &c., &c.

Cross examined by Wm. W. Grout.

Q.—Then you are acquainted with Dr. Hamilton's work on dislocations and fractures? A.—Oh yes.

Q.—How do you like it? A.—I don't think much of it. It does not compare with English works and is not the best of American works.

Q.—You are well acquainted then, are you, with other American authors on this subject? A.—Oh yes.

Q.—Give the names of such? A.—I cannot give a complete list.

Q.—I do not ask for a complete list. Give the name of one other American treatise on dislocations and fractures.

Witness hesitates, and counsel repeats:—Give the name of one other American writer on this subject. A.—None occur to me now.

Q.—The truth is, then, you do not know anything about American authors on this subject—not enough to know their names even! A.—I have examined Hamilton somewhat.

Q.—Did you ever see it until you reached this town to attend this trial? A.—Can't say that I ever did.

Q.—I would now call your attention to the anatomy involved in this dislocation. It is true is it not, that the sternal end of clavicle has no socket like most other joints, but rests upon a flat surface, and is held in place by certain ligaments, cartilages and membranes; and that when dislocated as in this case, these are all torn away. A.—Yes, though I think the sternal portion of the interclavicular ligament was not broken in this case.

Q.—To effect a cure it is important to keep the shoulder up and back, is it not? A.—Yes, sir.

Q.—And to accomplish this you have not only the weight of the shoulder, but the involuntary contraction of several large muscles to overcome, have you not? A.—Yes.

Q.—Can you conceive of any other appliance that will as effectually accomplish this as the yoke splint and figure of eight bandage combined? A.—Well, sir, the figure of eight bandage is a good dressing. It has the approval of the profession, and such writers as Sir Astly Cooper and others in the Old Country.

Q.—But the yoke splint you consider a piece of barbarism, do you not? A.—I do not consider it a suitable dressing at all.

Q.—You are not aware that it has been used by the profession in New England for the last fifty years, and that too, with general favor? A.—Perhaps such as this—referring to a patent yoke splint put into the case by deSt—may have been used, but not some agricultural implement, like a sap-yoke.

Q.—Will you take these two splints, the patent splint and the sap-yoke, and examine them carefully; and if the patent is in any respect the best, say in what respect, and why the best. A.—I can't say there is much difference, except that the sap-yoke is a great deal the heaviest.

Q.—How much the heaviest? A.—I cannot say, but considerable.

Q.—How much, I want your best judgement? A.—Witness, after carefully handling them sometimes, said: Perhaps two or three ounces.

Q.—Not so very much heavier, then, after all? A.—Not so very much.

Q.—Now I want you to tell the jury about these muscles which have their attachment to the shoulder, and about their contraction. It is true, is it not, that whenever a bone is fractured or thrown out of place, the muscles in the neighborhood of the injury, take on what is called involuntary contraction? A.—It is; and sometimes that contraction is very powerful.

Q.—In this case, the muscles about the shoulder contract, and tend to draw the shoulder down, do they not? A.—Yes, sir.

Q.—And to effect a cure, you say it is important to keep the shoulder up—now, let me ask you as a matter of philosophy, if it does not seem to you that the yoke splint is admirably adapted to accomplish this result. A.—Perhaps so; I can't say.

Q.—Give the names of these muscles which contract to draw the shoulder down. Give them all. A.—There is the deltoid, the pectoralis major and the pectoralis minor.

Q.—Give the origin and insertion of each. A.—The witness gave the origin and insertion of the deltoid and pectoralis minor, correctly—or at least to the satisfaction of counsel; but of the pectoralis major, witness said in substance, as follows: It has its origin from the clavicle, and its insertion along the middle portion of the ribs.

Q.—Are you sure, Doctor, that this muscle has its insertion along the ribs, at that point. A.—Yes, sir.

Q.—Has it not its insertion upon the anterior lip of the bicipital groove? A.—I think it has. I was mistaken; it has.

Q.—And did you give the whole extent of the origin of this muscle? A.—Yes, sir.

Q.—Does not this muscle also extend along the whole length of the sternum or breast bone? A.—Yes, sir. Oh yes, it does.

Q.—And is that its whole extent? A.—Yes, sir, to be sure.

Q.—Does it not also extend along the cartilages of the true ribs? A.—Indeed, I think it does.

Q.—This muscle has an extensive origin, has it not; more so than you were thinking? A.—It has an extensive origin.

Q.—Have you given the names of all the muscles that have to do in draw-

ing the shoulder down and pulling the bone out of place? A.—I think I have unless it is the *Satusimus dorsi*.

Q.—Has the biceps muscle anything to do with it? A.—It would have.

Q.—Now give the origin and insertion of the *Satusimus dorsi*. It is an important muscle, is it not? A.—It is. Witness held in his hand a skeleton, and after starting once or twice to give the origin of this muscle, said: I don't know as I can give it in technical language.

Q.—Very well, sir, use your own language; but point out to the jury whereabouts on the shoulder this muscle has its origin, and give its direction; then point out the place where it terminates. Take your time for it, sir?

A.—Witness turned the skeleton half round several times, and commenced as often to answer the question, but finally said; I don't think I can tell; it has been some time since I was examined.

Q.—But you say you are one of a board of *examiners* when at home—does it require less knowledge to examine, than to be examined? A.—In our examinations each has his own department.

Q.—Which is your department? A.—The primary.

Q.—You say the primary? A.—Yes.

Counsel.—Well, I should think so; that is all.



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