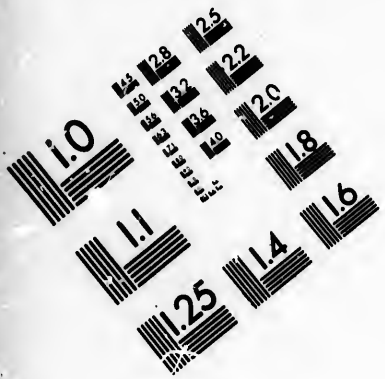

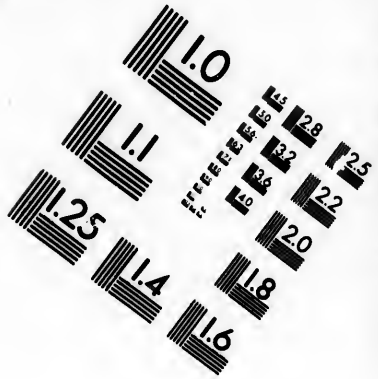

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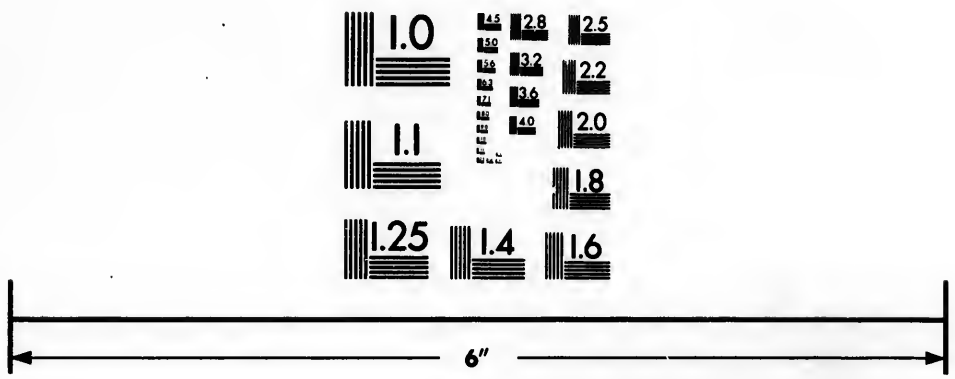

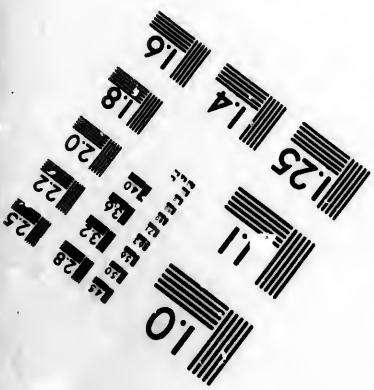

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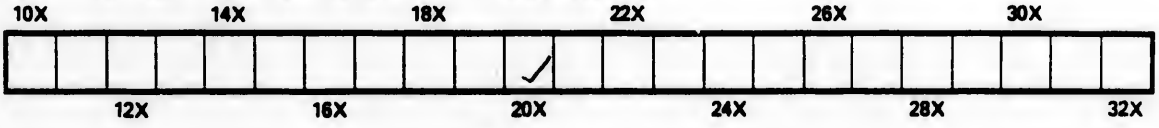

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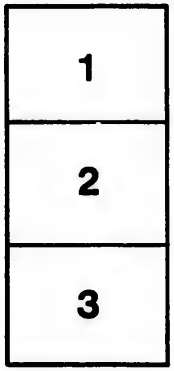

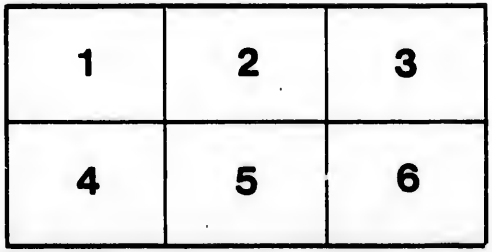

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Les Adams, J. Q.

THE LESSON OF THE HOOPER TRIAL.

(*Reprinted from the Montreal Medical Journal, February*, 1894.)

THE LESSON OF THE HOOPER TRIAL.

If the trial of Hooper on the charge of murdering his wife by the administration of prussic acid has failed to establish his guilt, it has at least taught one great lesson, namely, that the present method of dealing with cases of suspicious death is radically wrong, so far as the calling in of medical aid by the Crown is concerned. Every one must freely agree that in this case there was established by the prosecution a wonderful chain of evidence, each link of that chain going to prove that the prisoner had deliberately arranged to remove his insane wife, and thus leave himself free to marry another woman, and all the circumstantial evidence seemed of such a kind that it was difficult to see what defence could have been brought in rebuttal of a charge of attempted murder. Nay more, the established movements of Hooper, the purchase of prussic acid, the carefully arranged transport in the baggage car, the whole circumstances surrounding the actual death of his wife, are difficult to explain otherwise than on the assumption that he was planning a further attempt on her life. Yet despite all this circumstantial evidence the jury brought in a verdict of "not guilty," and in our opinion they did rightly; they had no option, and if it be asked why no other course was open to them, the answer must be that however ably the crown proved the intent to murder, however clearly they established the moral guilt of the man, legally they failed notoriously to establish their charge; the evidence brought forward could not prove that prussic acid had been

administered, it could not be shown that the death of Mrs. Hooper was due to this cause; and this alone, and so long as what may be termed a working possibility of death from natural causes could not be excluded, so long was it impossible to obtain a death sentence.

It is evident, therefore, that the fate of Hooper depended upon the medical evidence that could be brought forward; that this evidence made the case. If the Crown could not establish the act of administration of the poison, the culpability of the accused could only be determined absolutely by a study of the symptoms presented by the dying woman, by the conditions revealed at the autopsy and by the results of chemical analysis. And here comes in the most remarkable state of affairs. For three months the crown had been in possession of all the facts bearing upon the medical side of the case. Since the beginning of October, it had possession of the depositions of those who saw the death of the woman; it had the report of the physicians who made the autopsy, and the report of the able chemist to whom was given the analysis of the stomach and other organs. It had, in fact, been in full possession of all the material upon which medical judgment could be given, and having all this, it determined to indict Hooper on the charge of murder. Yet when the case came into court, it was the evidence of the crown experts that showed conclusively that the charge could not be sustained; proved it so conclusively that the defence did not bring forward a single expert to testify concerning either the interpretation of the symptoms, or of the post-mortem appearances. The solitary piece of professional evidence adduced by the defence was the fact, proved by experiment, that small but fatal doses of prussic acid are capable of being detected in the stomach and other organs of large dogs after an interval of a fortnight.

If Dr. Stewart could state freely in the witness box that other forms of death might be accompanied by similar symptoms; if Dr. Douglass, who performed the autopsy, could admit that the examination of certain organs had not been complete and did not exclude the possibility of lesions, capable of leading to

sudden death, being present in those organs ; if Professor Ellis could only conclude from his failure to discover any trace of the poison, that its absence made death from this cause possible but improbable, surely the law officers of the Crown charged with conducting the case ought to have known these opinions of their experts long ago, they ought to have recognized that evidence of such a nature completely destroyed their case. And the question is, why did they persist in their charge ?

Two answers may be given to this question. Either they disregarded the fact that conviction depended upon the strength of the medical evidence that they could adduce,—that the gist of the case lay in the statements of their experts,—or they had neglected to consult those experts properly as to their opinion and the admissions they would necessarily have to make upon cross-examination. Probably both of these answers contain a large amount of truth. It is but natural that lawyers should fail to appreciate the value of medical testimony, and should be specially prone to overlook it when they are in possession of a rich supply of circumstantial evidence. This, however, is scarcely an excuse. And with regard to the experts, we believe that we state the matter correctly, when we say that there was no consultation with them until after the indictment had been drawn out, and then, doubtless, the endeavours of the crown officers were not to discover so much what their experts had to say against the charge, as what they could adduce in favour of the prosecution.

Herein, it seems to us, lies the terrible weakness of the present method of procedure ; a weakness that has cost the province not thousands, but tens of thousands of dollars. Without consultation with any leading members of the medical profession, the law officers of the case determined to continue with a charge, in which the medical aspects were all important, a charge which any impartial physician, given the depositions at the coroner's court and acquainted with the facts of the case, must have reported as being incapable of being sustained.

It is a matter of urgent necessity, therefore, that some change should take place in the method of procedure in this respect.

We would not at this moment go so far as to say that there should be established an official board of experts, who should advise as to the strength or weakness of the medical and scientific evidence in connection with any suggested criminal charge brought against an individual, but we would urge that in future the Crown should nominate or seek the advice of two or three responsible professional men who should report upon the value of the evidence and its interpretation. Experts so nominated would be in a thoroughly impartial position, their duties would not be to lean either to the one side or the other, but to seek out the truth, to get to the bottom of the case, and to report their conclusions to the Crown, leaving it to the Crown to act upon their report. In short, to illustrate what we mean, the admirable and impartial evidence given by the crown experts, by Dr. Stewart, Dr. Douglass and Professor Ellis in examination and cross-examination ought to have been in the hands of the crown officials before ever there was a thought of drawing out an indictment against Hooper, and we may add that the Crown, with plenty of time before it, rather than the defence, should have initiated experiments to determine the conditions under which a poison, such as prussic acid, is discoverable or tends to disappear in the decomposing animal body.

If we feel bound to urge these matters, there is a further point in connection with medico-legal enquiries which this trial brings prominently forward and which we must insist upon even more strongly, and that is the inadequacy of the present coroner's system of this and the neighbouring province to deal with cases of sudden and suspicious death Every case of sudden death ought to be the subject of immediate investigation, we will not say necessarily by the coroner and his jury, but by a medical man of good standing, who should advise as to the necessity of holding an inquest. Here it is not impossible that the contention of the prosecuting counsel was true, and that the eleven days which elapsed before anything was done were sufficient to destroy all traces of the poison. This very contention is an admission on the part of the crown that the

autopsy and analysis should have been made at an earlier date. Under no conditions ought Hooper to have been allowed to remove the body of the deceased from Terrebonne into the next province, without there being an official enquiry made as to the cause of death.

And when at last, at Hooper's instigation, be it said, an inquest was held, the proceedings thereat reveal another weak point that must be removed. We refer to the conduct of the autopsy. According to the present law the coroner can call upon any physician to perform this. In this case he called upon a practitioner of conspicuous ability, as was shown during the long examination to which he was subjected, but one who had not been accustomed to perform autopsies in cases of moment, who consequently neglected to make a detailed examination of those very tissues whose study is most important in cases of sudden death from unknown causes. Lesions of the vascular system, and especially of the heart, are the most common cause of sudden deaths. But the coronary vessels were not examined thoroughly, the heart muscle was not minutely studied, the vessels of the lungs and brains were not cut up and examined to exclude the possibility of recent emboli. And this is all the more annoying, inasmuch as the vascular system is the one which least of any is affected by post-mortem change. Lesions in the vessels can be recognized long after parenchymatous changes in the organs are completely blurred by putrefaction.

Surely the facts brought out by this trial point to the necessity for the appointment, not of private practitioners, but of official pathological experts to perform medico-legal autopsies.

One good effect of the Hooper trial will be to impress the public with the fact that after all, the popular opinion that prussic acid employed as a poison is most volatile, is not grounded upon fact. Had Hooper been found guilty, had the defence, and the crown experts, not brought forward prominently that prussic acid may be detected in the putrifying body weeks, and it may be months, after death, it is not improbable that prussic acid

would have been installed throughout North America as a most useful instrument in the hands of would-be homicides. There might have been an epidemic of cases of poisoning by this substance. We firmly believe that the evidence and verdict will have the useful effect of preventing anything of the kind. We mention this with relief, as not unfrequently after celebrated murder cases where some little known poison has been brought prominently into public notice, such epidemics have occurred.