

## **A treatise on forensic medicine, or medical jurisprudence.**

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A  
**TREATISE**  
ON  
**FORENSIC MEDICINE.**

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**TREATISE**  
**ON**  
**FORENSIC MEDICINE**  
**OR**  
**MEDICAL JURISPRUDENCE.**

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BY

**O. W. BARTLEY, M. D.**

**BRISTOL.**

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“Scribimus docti, indoctique.” HOR.

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*BRISTOL:*

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1815.



# TREATISE

## PREFACE

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In the following treatise I do not intend to embrace every circumstance connected with Forensic Medicine, as it involves a great variety; but confine myself to observations on those cases which come under the jurisdiction of the courts of law, wherein the decision must essentially depend on medical evidence. I have therefore endeavored concisely to point out certain rules, by which the judgment of the courts might be directed, and trust they may not prove unacceptable.

*R. Rosser, Printer, Bristol.*

## PREFACE.

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**I**N the following treatise I do not intend to embrace every circumstance connected with Forensic Medicine, as it involves a great variety; but confine myself to observations on those cases which come under the jurisdiction of the courts of law, wherein the decision must essentially depend on medical evidence. I have therefore endeavored concisely to point out certain rules, by which the judgement of the courts might be directed, and trust they may not prove unacceptable.



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I avail myself of this opportunity to offer a few remarks on a subject which concerns the general health of the community at large.

I would advise that, in certain districts, a medical officer should be appointed as censor, whose province it should be to detect and remove those causes, which in their effects are obnoxious and prejudicial to health. To enumerate these would be tedious. I therefore confine myself to a single instance. I have had occasion to observe, that in manufacturing places, where the machinery is moved by water, persons residing contiguous are always subject to intermitting fevers, particularly at certain times. It sometimes happens that a decreasing demand for the articles produced in these



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manufactories occasions a suspension of their employment for a considerable time. During this period the water which impels the wheels to motion is dammed up, and becomes stagnant; putridity, aided by and consequent to vegetable fermentation, speedily ensues. The miasmata exuding from this deleterious source are inhaled, and the effects are such as I have described. On one occasion I knew upwards of a hundred persons suffering from intermittent fever, who lived within the influence of this noxious effluvia, which was diffused to a considerable extent. The sufferers endured patiently this calamity without remonstrance, partly from ignorance of the cause, and partly from fear of giving offence to the proprietors, on whom they depended for employment. Now this requires attention:—certainly the health and



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lives of the labouring poor should not be thus trifled with, especially when the prevention is so easy; for it is only necessary to afford the water a free vent, as is the case when the machines are at work, to obviate these pernicious consequences. A medical censor, therefore, duly authorised, would be empowered to control these inconsiderate proceedings; thereby precluding the necessity of many industrious members of society, whose very existence is endangered by them for application to parochial aid, in consequence of their inability to pursue their accustomed avocations.

I shall not now dilate on this subject, but submit it to the consideration of a humane, enlightened, and discerning public.



## SECTION I.

### ON ARTIFICIAL ABORTION.

**I**T is painful to reflect that in this professedly enlightened Age, there should exist persons in all ranks of society who dare to violate the penal laws, the laws of nature, and the laws of the great Author of Nature; who, hurried on by their impetuous passions in the progress of error, endeavour to conceal one crime by the commission of a greater. Guilt generates shame, shame deceit; and in systematic order they advance to the completion of infamy. Such are those



who anxious to preserve that reputation of virtue, to which they have forfeited the claim, are impelled to the dreadful determination of destroying the fruits of their illicit amours. And there are those, I grieve to say, who offer their ready assistance in the perpetration of so abhorrent a crime, and in public advertisements, in insidious and guarded terms, direct where they are to be found. Their designs are easily comprehended when they profess to remove obstructions that females are liable to, with a proposal of accepting an asylum with them, where the most inviolable secrecy is promised to be observed.

There are in the catalogue of human vices, few more heinous than that I have alluded to, so heinous that the utmost power of exaggeration cannot add to its deformity. It is murder in fact ; and often a complicated



crime of murder and suicide; for it not unfrequently happens that persons who resort to artificial means to promote abortion become victims of their own delusions. To strengthen this opinion I shall adduce those of others on this subject, which may serve to confirm my own.

The ancient Legislators, Solon and Lycurgus, prohibited this practice, under the most severe pains and penalties; and the primitive Fathers, Athenagoras, Tertullian, Minutius Felix, Augustan and others declaimed vehemently against the practice as virtual murder—"Homicidii festinatio est prohibere nasci; nec refert natam quis eripiat animam, an nascentem disturbet."

Palin mentions an instance of a midwife hanged at Paris for destroying a foetus in the womb, by running a stiletto up the



vagina through the orifice of the uterus, by which abortion was procured, but with such ill success, that the mother was seized with convulsions and died miserably ! The criminal confessed she had treated many others in the same manner, without such consequences. This fatal method, without judgment to direct its operation, is too frequently used among us, our own country affording us an example, a woman having been executed some years ago for the same fact.

It is not relevant to my plan to describe the various methods of producing abortion, nor is it necessary to enquire into the ingredients of the “*Poculum Abortionis*” of Hippocrates, which he once administered to a slave.

In the case of artificial abortion, the me-



dical practitioner has little to do further than, as an early knowledge of the means employed to procure it, may enable him to counteract them, and thereby preserve the lives of the mother and the child.

Every woman who attempts to promote abortion, does it at the hazard of her life ; if this were generally known it would in all probability deter them from such a proceeding, except they are in a state of consummate depravity. It may be remarked, whoever endeavors to counteract the ordinary proceeding of nature, will have in the end sufficient cause to repent the temerity.

It has been too generally imagined, especially among the uninformed and ignorant, that in the embryo state of gestation there is no life, and that it is only in the latter period when the child receives the appella-



tion of foetus that life exists ; this is the ordinary conclusion, as it is not apparent to themselves, it is therefore requisite to controvert this erroneous opinion. I believe that life exists in the embryo *ab origine* from the moment of impregnation, the “ punctum saliens,” and this principle dilates and expands in the regular proportion of the body during the whole period of gestation. If we advert to vegetable nature, the same reasoning holds good ; if we nip the germ of a tree or plant, in which is the principle of life, as containing the embryon blossom or fruit, we necessarily extinguish that principle. What has led to the false conclusion of the non-existence of life in the embryo is this : In the early stages of pregnancy, before the ascent of the uterus above the pubis or brim of the pelvis, which takes place about the fourth, or between the fourth or fifth months, there is no percep-



tible motion ; but after that period the mother is fully susceptible of that action which is usually denominated quickening, and from thence is dated the real existence of life, which in fact existed before ; but from the confinement of the uterus, and its contents within the cavity of the pelvis, it was incapable of demonstration to the sense of feeling ; hence I conclude, that occasioning abortion in any state of pregnancy, is in an equal degree criminal.

If any unfortunate female should fall a victim to the pernicious system of administering drugs to procure abortion, and should be submitted to the inquest of a coroner's jury, it will be necessary to ascertain the fact by dissection. Thus, by minute investigation, they will be enabled to decide on the causes of dissolution.



In this operation will be observed various indications of inflammation consequent to excessive irritation in the parts primarily affected, as the stomach, the chylopoetic viscera and their peritoneal covering, the uterus itself will be found flaccid and inelastic, livid spots approaching to gangrene will be discovered on its inner coats, as well on those parts immediately connected with it, with coagula in its cavity, and probably in the vagina. Other circumstances may occur to the observation of the Operator, that will more fully elucidate the subject than a verbal communication can possibly do.

I desire to disclaim any intention of interference with the penal law; but cannot refrain from adding a few remarks on this subject.



In case a woman should consult a person on the means of procuring abortion, he supplies her with these, and in consequence she dies, he is an accessory to the crime "ipso facto," and should incur the penalty of the law. If she survives, and the object of their designs (she being acquainted with them) is accomplished, both parties are principals; for even should they fail in the completion of their wishes, they should be liable to the charge of premeditated murder, with full intent to the commission. But if an instance should occur wherein a man has seduced an unguarded female, she should become pregnant, and he, in order to avoid the loss of reputation that might possibly attend the discovery of his guilt; or probably with the intention of preventing the expence her delivery would necessarily incur; should administer to his inamorata powerfully stimulating drugs



to promote abortion, she being unconscious of his designs, and she should fall a victim to their pernicious influence, is he not in act and deed a murderer? and should he not receive the punishment due to so aggravated an offence? It is surely a most unnatural crime, and cannot be viewed, even by the most abandoned, without horror. What then shall I say of those miscreants who make this iniquitous practice their profession, who daily advertise their assistance to women in this business? They truly merit the most severe of human punishments, and should on all occasions be branded with infamy.

## SECTION II.

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### ON INFANTICIDE.

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**I**T is not an unfrequent occurrence that an unwary female, listening to the voice of the betrayer, becomes deaf to the dictates of conscience, reason and reflection, and yields herself to the gratification of his unruly desires, who soon abandons her to the bitterness of remorse. Her mind being thus initiated in vice, opens an avenue to the admission of errors, the usual concomitant of guilt, with its constant attendants, grief, shame and inquietude, with the upbraiding



of conscience. Having then lost that inestimable privilege on which rested her future hopes and prospects, and dreading the loss of character and reputation, on which depended the means of existence, she unwisely resorts to the subterfuge of concealment, unconscious at the same time she will soon become a mother, when discovery is unavoidable, (I say unavoidable, because it surely happens that this species of transgression is not detected). Yet, advancing in the progress of error, and unheedful of the imperious calls of nature that stir within her, she still persists in her iniquitous design. Dreading the divulgement of the shame which overwhelms her, and designing to avoid suspicion, she neglects to make any provision for the reception of the child from her womb, and is still desirous of deferring the evil day to the last moment when the hangings of the mother dissipate the illusion.



Now then instead of acknowledging her situation, and claiming that assistance and protection which humanity would not, could not refuse; she seeks seclusion and retirement. In this solitude she endures her painful throes, excluded from the soothing tears of pity, the aid of benevolence, and the sweet alleviation of sympathy.

Thus is her offspring ushered into life, and soon expires, perchance from want of due attention, and often (horrid to relate) the hand of the mother inflicts the deadly stroke.

Reflection shrinks from the contemplation of so unnatural a crime, whilst every fibre thrills with astonishment, aversion, and detestation. Cannot the glow of innocence which beams on the face of infancy, arouse the tender feelings of nature in the mother's breast, and so avert the threatened de-



Ah! no! In guilt it was begotten, and by guilt it is destroyed. The evil spirit of Cain pervades its destiny, and exults in the dreadful influence of his example.

Retiring from these reflections I proceed to examine the circumstances that may lead to a discovery whether dissolution was subsequent or previous to delivery, when the senseless body of a child is drawn forth from its concealment, and submitted to examination. To ascertain this, we must on dissection, attend to the state of the lungs which are principally the organs capable of demonstration on this head.

The lungs in the foetal state are in a state of collapsion; they assume a compact form and there is no circulation through them in the pulmonary artery, consequently, if placed in a vessel of water, they sink to the bottom.



from their gravity. On the other hand when the child is born alive, the lungs exhibit a very different complexion. The vesicular substance is the air cells, and the vasculature invests these cells like a net-work; through these air cells the arterial blood, derived from the pulmonary artery, circulates and undergoes a certain change, and also from the bronchial artery, a branch of the aorta which carries blood to the lungs for the nourishment.

The pulmonary veins return the blood that has undergone this change, by four trunks into the left auricle of the heart.

From these dispositions we must naturally conclude what is really the case, that the cellular substance of the lungs becomes inflated and dilated with air by respiration and are found buoyant when put into water.



being then considerably lighter than that element.

Hence it may be readily discovered if blood has circulated through these vessels, which will appear by their distension. The cavity of the chest in the foetus is so much contracted from want of action in the pectoral muscles, that it is hardly discernable ; but when respiration has taken place the lungs are dilated, and the cavity is more expanded.

The liver too in a child born alive will be found of less magnitude than in the foetal state, possibly owing to a deposition of the meconium which that viscus had previously retained.

I am well aware these proofs in regard to the lungs have been found fallacious, their fallibility must greatly depend on the state



of the body that undergoes this examination. If it is in a state of putridity, the lungs will generally sink in water, although the child may have been born alive; and, opposed to this—the lungs of a still-born infant, in that state of fermentation, immediately antecedent to putrescency, may be found to swim on the surface, consequently these indications may prove occasionally inconclusive.

If however the discovery is recent, and no disposition to putridity appears, we may, by attending to the proofs contained in the foregoing observations, decidedly determine on the case.

Having duly ascertained that the child did actually exist subsequent to delivery, it behoves us to inquire into the causes of its demise, in order to determine whether they



were casual or effected by violence, either by strangulation or other means. This must chiefly depend on the external appearance of the body: and here we must beware of forming too hasty a conclusion, lest the marks of *nævi*, of various descriptions, may be mistaken for extravasation, arising from contusion, and it may not be amiss to remark, that considerable discoloration of the skin may be seen, indicative of decomposition, that affords no criterion.

I well know the law deservedly awards the punishment of imprisonment, in cases of concealment, where murder is not implied, and death in those where the commission of the crime is fully established; it is therefore necessary, the distinction of the degree of criminality should depend on scientific enquiry, and shall be the subject of the following remarks.



When there are no apparent marks of violence exhibited in inspecting the body of an infant, presumed to be born alive, humanity should incite us to consider attentively the circumstances arising out of the case that may lead to exculpate the unhappy mother from the charge of murder applied to her, and thus temper justice with mercy.

It is not a rare occurrence, that the pains of labour, from the powerful contraction of the uterus, forcibly expel the fœtus through the vagina and os externum, the woman being then perhaps in a standing position; and thus by the weight of the substance, the *funis umbilicalis* is instantly dissevered, the poor sufferer then under the influence of acute pain, distraction of thought, and perturbation of mind; or probably, ignorant of the necessity of applying a ligature to



that portion of the funis attached to the foetus, neglects this precaution, and the child dies from hæmorrhage.

I do not mean to say that this neglect is invariably attended with this fatal consequence, though I must insist upon its probability; for it is only in a very few instances hæmorrhage has spontaneously ceased, and life has been preserved, owing to coagula filling up the cavities of the umbilical vessels, thereby impeding the efflux of blood; still the great probability of the fact should be adduced in behalf of the culprit.

Sometimes the corpse of an infant is discovered in the hole of a privy; in this case, suffocation in the compost will readily account for its death; but from this a question will arise whether this occurrence was acci-



dental or wilful, and this cannot be easily solved but by the mother's confession, which cannot be extorted ; yet still, every opinion tending to extenuation should be brought forward when the case is doubtful, thereby preventing an individual from being cut off from society, possibly innocent of the crime imputed ; an event that every sensible and feeling mind must deplore. Impelled by this consideration, I offer mine.

It is well known, when the progress of parturition is far advanced, and the foetus is descending through the lower aperture of the pelvis, there is a considerable degree of pressure on the rectum, which induces an irresistible inclination to evacuate its contents. Is it then wonderful a simple woman, utterly ignorant of the causes that produce this sensation, should obey the



impulse? No; it is more likely she would resort to a place suitable to the occasion, and it may be, is in that situation quickly and unexpectedly delivered of her burden; which, descending with impelling force into the gulph below, probably ruptures the funis umbilicalis, and is speedily immersed in its noisome contents, (possibly beyond her reach; consequently her efforts for the extrication the child would be unavailing, even if her weakened state permitted her to exert them,) when suffocation inevitably ensues.

This may perhaps be more clearly illustrated by recording a case that has fallen under my own observation.

A gentleman in the country, whose family I had been long in the habit of attending, called on me one evening and requested my



immediate attendance at his house to examine a child that was found dead in the soil of a privy, which was rather removed from his dwelling, as being appropriated to the use of the servants. On arriving I found the body of a fine well-formed child, and from the rotundity of its head, without any depression of the sutures, I concluded its birth was attended with little difficulty, as there were no appearances of pressure, nor was there any thing that indicated any degree of violence. The funis was five or six inches long, and from the irregular and jagged edges at its division it plainly appeared, it was torn asunder, not cut.

What led to the discovery was, that a labouring man working in the garden, having occasion to use the privy, observed the floor as well as the seat was stained with



blood ; this led him to suspect something wrong ; he spread the alarm, and a due search was immediately resolved on : after some time there was discovered deeply engulfed in the soil, the object of their enquiry. Suspicion now rested on a female servant, who had been in the family about three months. Some time previous to this event, her mistress observing her size, shape, and general appearance, suspected the truth, and accordingly taxed her with it. The servant persisted obstinately in denying the fact with so much appearance of genuine innocence and probity, that the lady concluded she was deceived in her judgement, and the matter rested.

A fellow-servant who slept in the same room with the delinquent, deposed that on the morning of the discovery, about four



o'clock, she was awakened by the groans of this woman, who, on being questioned, complained of a violent pain in the bowels, and soon after dressed herself and went down stairs, as she supposed to ease herself. How long she was absent witness could not say, as in the interim she fell asleep ; for when she awoke she found her companion had returned to bed, and that it was then daylight. The culprit then requested her to rise and do her work for her, as she was so ill that she should not be able to get up the whole day, and this was complied with, the witness being unsuspecting of the cause.

Having obtained this information, I ascended to the room where the woman lay, who on my appearance manifested great terror, and extreme agitation was visible in her countenance. I endeavoured to sooth



her and urge confession, as some mitigation of her offence ; to this demand she at length acceded. She stated that she had concealed her pregnancy from the fear of being dismissed from service ; that it was her first child, and was wholly unconscious the pains which then assailed her were the pains of labour ; that early in the morning she felt much pain, with a very great inclination to go to stool, and repaired to the privy for that purpose ; where, while she was seated, a violent pain had expelled the head of the child, and a short time after another of equal strength, the shoulders with the rest of the body, and she saw no more of it ; for when she was enabled to rise, it had disappeared, being quite buried in the soil, which was of a considerable depth. She expressed much contrition, and an unfeigned concern for the loss of her infant. I then enquired



if the placenta (or after-birth according to the common acceptation) had been withdrawn? she professed herself ignorant on this subject, declaring she did not understand my meaning. I then explained to her the necessity of an examination per vaginam, which she permitted, when I found the placenta lodged in the vagina; this I removed with some coagulum. This inclined me to believe the truth of her statement, and that the circumstances so much against her were merely the result of the most profound ignorance, and not the effects of premeditated design. I afterwards acquired the knowledge of her general character, which was that of extreme simplicity, almost amounting to stolidity.

A coroner's inquest was held on the body when I opened the cavity of the thorax



The lungs were inflated, and there was still blood in the pulmonary artery, and its ramifications in the vascular substance of the lungs of that colour, which arterial blood always assumes. The lungs were immersed in water, and they swam on the surface; in short, considering every circumstance, I felt no hesitation in affirming the child had existed, and that respiration had actually supervened, probably during the time that the head was protruded through the os externum, before the advancement of the shoulders. The jury gave a verdict of wilful murder against the mother, and an indictment for this offence was preferred at the ensuing assizes, where I attended as evidence, and having faithfully related every circumstance of mitigation connected with the affair, I was fortunate enough to impress the minds of the bench and jury with a conviction,



that murder was not designed ; and the judge having addressed them to that effect, the jury's verdict was concealment only. Murder not being imputed. The prisoner was consequently sentenced to two years imprisonment.

In reflecting on the leading features of this case, there are some circumstances that might tend to confirm the opinion of murder, without the full investigation of the whole.

The denial of her pregnancy, her neglecting to make provision for the occasion (which was actually the case,) and afterward concealing her delivery, certainly were strong arguments against her ; yet if no positive proofs can be obtained to substantiate the commission of the crime alledged, we should



certainly incline to mercy ; and surely the reflection of having contributed our endeavors to rescue a fellow creature from perdition will afford infinite satisfaction to all who are possessed of a humane disposition.

The crime itself is so detestable in its nature, that an honest and well-disposed jury may imperceptibly feel a prejudice against a culprit arraigned at the bar charged with its commission ; especially after having heard the indictment read, with all its legal embellishments and exaggerations, and under the influence of this feeling may be more inclined to punish rather than commiserate the wretched criminal. My object is to warn them against too hasty a decision, and to advise them to maturely weigh, and deliberately investigate the subject in all its bearings ; for examining only the parts of a



case, we are unequal to judge of the whole. In this they will be materially assisted by attention to medical evidence, and be thus enabled to fulfil honorably their important engagement, and thereby effect the designs of impartial justice.

Let it not be imagined that I wish, by any means, to impede the execution of justice in the punishment of aggressors. I only desire to suspend the rod until the conviction of guilt is fully established ; then let it fall on the guilty, for I have always considered, it is better that ten guilty should escape than one innocent should suffer death. I believe the majority of my readers will agree with me in this opinion.



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Let it not be imagined that I wish by any means to impede the execution of justice in the punishment of aggressors. I only desire to suspend the rod until the conviction of guilt is fully established; then let it fall on the guilty. For I have never considered it as better that ten guilty should escape than one innocent should suffer death. I believe the majority of my readers will agree with me in this opinion, and I therefore repeat that I wish to see justice done, and not to see the innocent suffer.



### SECTION III.

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## PROTRACTED UTERO GESTATION.

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**T**HIS is a question that concerns the legitimacy of a child born in widowhood, and therefore merits consideration, as it regards the right of accession to property ; yet experience has not justified an indefinite conclusion on the subject. I must therefore content myself with stating two cases recorded by the minute, accurate and deservedly eminent Dr. Smellie. The first was of “ a young lady who was married in



September, about six weeks after the menstrual discharge, which not returning at the stated time, she was affected by the usual complaints of sickness, retching, &c. which were considered by her friends as certain signs of pregnancy; and though she reckoned only to the first of June, she was not delivered until the end of August. Before marriage the menses had returned regularly every four weeks, and though she perhaps did not conceive immediately after wedlock, yet it was reasonable to believe she actually exceeded the usual term of gestation by five or six weeks at least. Her labour was very tedious, although the pelvis was large; but the child was lusty, and the head was compressed to a longitudinal form." He concludes with observing, "It was indeed the largest child he ever saw in his life.



The second case was a woman, who Dr. Smellie attended and delivered. "According to her own reckoning, she had exceeded the usual time of gestation by eight weeks, for she affirmed, and her mother confirmed the assertion, that she had but one discharge of the menses after her marriage, and in the middle of the month was seized with all the common symptoms of pregnancy, from which they concluded she had conceived soon after that evacuation." Dr. S. adds, that he has selected these two cases from a number of less certainty, "and I myself (says he) very often find my patients go two or three weeks beyond the usual time, nine months, reckoning from the last discharge of the menses."

I add to these a solitary case of prolonged *utero gestation* occurring in my own practice.



I attended a lady, with her second child; she had reckoned to the beginning of July, which was nine months after the disappearance of the catamenia, which had before appeared at the usual periods. The abdomen was enormously distended, and her labour, which came on in the latter end of September, and may be reasonably calculated at eight weeks longer than the ordinary period of gestation. Unlike her first delivery, that was accomplished with facility, this was attended with very considerable pain and difficulty, so much so, that forcible means were necessary to extricate the child, which had for a great length of time seemed completely jammed in the lower aperture of the pelvis. The pains were exceedingly strong and in quick succession, and the exhaustion of the patient required immediate relief. The child was dead born, with its head, or



rather the scalp compressed to a conical shape, without any depression of the sutures, which were firm and compact. I may truly say, with Dr. Smellie, it was much the largest child I had ever then, or have since seen. She had afterwards several children of smaller dimensions, and consequently with less difficulty.

I record this fact, that though it may appear in itself insignificant, yet in combination with others that may be produced, may, in process of time, serve to the elucidation of a subject, which has hitherto been involved in doubt and obscurity.



rather the scalp compared to a control  
 shape without any deviation of the surface.

# SECTION IV

which were thin and compact. I may truly  
 say with Dr. Scudler, it was much the  
 largest child I had ever seen, or have  
 since seen. She had **HAIR** several child-  
 ren of smaller dimensions, and conse-  
 quently with less distinction.

**I** It is with infinite disgust and aversion I  
 enter into the investigation of a subject so  
 repulsive with nature, and in which I am  
 necessarily engaged in accordance to the  
 plan I have proposed. The crime itself is  
 a foul disgrace to mankind, and reflects  
 dishonor on the country wherein it is com-  
 mitted. It is subversive of every principle  
 of virtue, humanity, decency, morality, and  
 social order. It sinks a man below the level  
 of the brute creation; the brute indeed not



## SECTION IV.

### RAPE.

**I**T is with infinite disgust and aversion I enter into the investigation of a subject so replete with infamy, and in which I am necessarily engaged in accordance to the plan I have proposed. The crime itself is a foul disgrace to manhood, and reflects dishonor on the country wherein it is committed. It is subversive of every principle of virtue, humanity, decency, morality, and social order. It sinks a man below the level of the brute creation ; the brute indeed suf-



fers degradation in the comparison. Painful indeed is it to reflect, in a favored country like this, on which religion sheds its mildest influence, and where the fostering hand of charity largely diffuses its benefits, that such a monster should exist. That here an artless, virtuous, and unprotected female, who claims and should receive protection from the superior dignity of man, should become a prey to the brutal violence of his lust, and be compelled to suffer the pollution her soul abhors. The poignard of the assassin is mercy when compared with this; for that only destroys life; but this embitters existence, renders it the less estimable, and therefore the less desirable. This is not a picture of imagination; it is indeed a sad reality. I willingly dismiss these unpleasant reflections, and shall pursue my original design.



There is certainly a peculiar hardship connected with the existing laws relative to this subject, and which it appears difficult to obviate. A depraved woman, actuated by malice, revenge, or (if possible) worse passions, charges a man with the commission of rape on her person. It is obvious that the person so accused finds it almost impossible to disprove the accusation, it being presumed there were no other persons present than the parties ; for if that were the case, it is most probable the commission of the act would have been prevented. The accuser is admitted to an oath ; this to the accused is denied ; he therefore can produce no other evidence in his vindication than the asseverations of his innocence, and these are not permitted to be received in competition with an oath. It then follows, if the woman resolutely persists in the accusation, and the



jury should be inclined to credit her deposition, (for much depends on the discrimination of the jury) he must be inevitably convicted of the offence and incurs its punishment, although it may be possible he might be altogether guiltless.

In cases like this a very nice investigation is surely necessary, in order, if possible, to decide with some degree of certainty, between the imputation of the crime and its actual commission. In aid of this enquiry I beg leave to express my opinions, and although they may be regarded as obsolete, and aware, as I am, they have been heretofore controverted, yet I boldly assert my conviction of their validity.

I have been led to understand, that if a woman accuses a man of the forcible viola-



tion of her person, she being in no way consenting in the fact, he must stand trial ; but if there should substantial proof appear of her being in any degree acquiescent, the accusation of rape would not be substantiated. Now it appears to me that pregnancy supervening such a connection, is an irrefragable proof of the woman's acquiescence ; for I am persuaded, that when person or persons are *in coitu*, under the control of depressing passions, as terror, apprehension, excessive grief, fear, alarm and the like, conception cannot be the result ; for these passions suspend (or if I may be allowed the expression) paralyze even energy, mental or corporeal. There may perhaps be some instances adduced of persons, under the impression of the depressing passion of fear, who have manifested great strength of mind and energetic ardour



extricating themselves from impending and imminent danger. This conclusion is fallacious ; the exercise of those energies must be justly attributed to the cheering influence of some cheerful or exciting passion, such as hope.

Suppose a man confined in a room, enveloped by flames, and there is no other way of avoiding the fatal effects of their fury but precipitating himself from a window of great height from the ground, and after short deliberation resorts to this sole expedient. I know such a proceeding would be generally attributed to the impulse of fear ; this is a mistaken idea. Under the sole influence of that extremely depressing feeling, he will unavoidably perish. That irresistible impetuosity which then pervades every faculty will not allow him to determine or act.



Fear has no impulse ; its first impressio would be shortly attended with its concomitant despair, did not hope succeed ; and pointing out to him the means of escape animate his energies, and direct his effort to his deliverance. In short, the hope of escaping alone inspires him with the resolution.

So *in coitu*, conception must depend on the exciting passion that predominates ; for this effect, the *æstrum veneris* must be excited to such a degree as to produce that mutual *orgasm* which is essentially necessary to impregnation ; if any desponding or depressing passion presides, this will not be accomplished.—Hence I conclude, if a woman becomes pregnant subsequent to, and in consequence of the alledged rape, it may be presumed, that she was not only acquiescent but became “ *particeps criminis*.”



I would submissively recommend that a delinquent convicted of rape may be permitted to pass this ordeal as the only test of his innocence. To this end the execution of judgment should be suspended for a time sufficient to enable persons appointed, capable of judging to ascertain the real state of the accuser, and report accordingly. If he should prove pregnant, the accused is conerated ; if otherwise he must suffer the penalty of the law, provided no other circumstances of mitigation should occur in the mean time. This arrangement may peradventure lead to the preservation of an individual from death ; yet being in other respects culpable, he should receive a punishment proportionate to the magnitude of the offence,

No one holds this crime more in detesta-



tion than myself, and I heartily wish that even the attempt may be severely and exemplarily punished. I conceive a continuance of hard labour, with a spare diet, would subdue these inordinate passions and vicious propensities that lead to destruction. Meanwhile, reflection, conviction of past errors, with sincere repentance, may bring the aggressors back to the rules of decorum, order, decency and sobriety.

But when a man is from indubitable proofs found guilty of so flagitious an act, let him be cut off from society ; the public safety demands it, and it is impossible to conceive to what lengths this intolerant depravity might go, unless prevented by a public example of the punishment awaiting such transgressors, which may deter others from the commission.



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## SECTION V

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**T**HE subject I am about to treat of  
merits investigation. When a dead body is  
found in the water, and a coroner's inquest  
is held, it is the duty of the coroner to  
ascertain the cause of death, and no man  
during the inquest should occur that would in-  
duce them to think otherwise. The jury  
conclude that the cause of death was a violent  
injury, and the inquest is then generally  
direct them to the coroner to the effect of that  
that will lead to discover whether the event  
was accidental, or the effect of a premeditated



## SECTION V.

**T**HE subject I am about to treat of merits investigation. When a dead body is found in the water, and a Coroner's Inquest is held, if there are no ostensible marks of violence observed in the body, and no concurring circumstances occur that would induce them to think otherwise, the jury conclude that the cause of death was drowning. Under this impression they generally direct their enquiry to the knowledge of facts that will lead to discover whether the event was accidental, or the effect of a premeditated



design, formed by the person so found, to destroy himself. They then give their verdict according to their judgment derived from the evidence produced on these points, without further examination by dissection. As in the first case accidental death. In the latter, lunacy, or "felo de se." This evidence is however incompetent; for it has happened that a person has been destroyed by poison, or by other means which may easily be devised for the extinction of life, without affording any visible marks of injury on the body, which is afterwards committed to the water to prevent discovery. This being admitted, a further examination becomes necessary, and this can be only accomplished by dissection. I shall therefore endeavour to point out the appearances likely to be exhibited on dissection, relative to the case I have described; and by this elu-



citation enable the jury to form a definitive conclusion from existing circumstances.

In dissecting the body of a person drowned, a considerable quantity of water will be discovered in the stomach and intestines, which has passed over the epiglottis, and descended through the œsophagus into the stomach, from the constrained and almost involuntary, or rather mechanical efforts in deglutition. There is no probability of there being any water contained in the cavity of the thorax; for if it were possible it could be forced through the larynx into the trachea in ever so small a quantity, suffocation would immediately ensue, and subsequently no water would be received into the stomach. But if life is extinct before the immersion of the body, no water will be found either in the stomach or



ntestines, which will be much distended by  
 nflation, especially if some time has elapsed  
 before the discovery ; and there will be less  
 tendency to putridity observed in this case  
 than the former, supposing the period of  
 existence can be ascertained.

To point out the means of recovery in  
 persons apparently drowned, where there is  
 a probability of restoration, does not come  
 within the limits of my investigation. I  
 therefore refer my readers to the instructions  
 given by the Humane Society, a most ex-  
 cellent National Institution ; to whose be-  
 nevolent exertions, many individuals now  
 existing are indebted for the preservation of  
 life.



## SECTION VI.

### ON CONTAGIOUS DISEASES.

**“SALUS Populi, lex suprema est.”** The truth of this axiom is universally admitted and approved. Its importance is superior to most other considerations, as on it depends the welfare of kingdoms and states. It is the “primum mobile” of every physical and political energy. It is an incitement to every laudable and useful pursuit and is the chief preservative of the general good. Should then the prejudice of a few be placed in competition with the welfare of the whole? Certainly not. The wisdom and



authority of the Legislature should be exercised, to obviate it. This authority I allow has been exerted in some degree to the preservation of the public safety, and the exertion has been attended with beneficial effect ; for instance, when vessels arrive in the ports of these kingdoms, from any country or place where a contagious disease is prevailing, or has prevailed, they are submitted to a quarantine for a certain period necessary to prevent even the possibility of the contagion being communicated ; nor any of the crew are permitted to land until the prescribed term of probation has expired. Now this is well. Yet, notwithstanding these precautions, a contagious disease is allowed to be fostered in this country. I mean the small pox, than which no disease is more contagious, and few more fatal in its effects.



The antidote to this bane has been discovered, and still the evil continues. Many blinded by prejudice, or indifferent to the consequence, either despise or neglect the proffered good, and obstinately persist in the endurance of a calamity, within their power to prevent, rather than resort to the means of prevention.

Let then those who are guided by this prejudice or preserve this apathy, *enjoy* this *delectable* disease within the precincts of their own families, and let them not be suffered to propagate the pestilence, to the annoyance and injury of the more enlightened and judicious individuals of the community. How often do we observe in the public streets, servants carrying about children, whose countenances exhibit the deformed characters of the existing disease, exciting



exquisite feelings of disgust and aversion in the minds of those who are witnesses of so shameful an exhibition, accompanied with regret. Disgust, because the disorder is in itself excessively disgusting; and regret, for the pertinacity of those who object to the means of preservation from so dire a malady.

This evil demands from legislative interference a remedy. Although I am inclined to believe, that in a land of liberty like this, where every one shrinks from the bare idea of compulsion, an act of parliament designed to enforce vaccination, would not be generally approved, and probably, in this instance, would only tend to confirm prejudices rather than remove them. Yet surely the legislative power might extend its exercise so far as to prohibit persons who prefer variola, and are under its baneful influence



from appearing in public. In short, they should be regarded as a public nuisance, and indicted accordingly.

It may be also needful to inculcate the necessity of washing with soap the bed-clothes, garments, &c. of the patient becoming convalescent, and of white-washing the room or rooms inhabited by the sufferer, lest the contagion may be communicated by fomites. It behoves every resident in cities, towns, and districts to unite in petitioning parliament for a redress of this grievance. I trust too the powerful and prevailing influence of the ladies will be exerted to this end, who, tenacious of the charm of beauty, will endeavour to preserve it to their lovely progeny in its native splendor.

By pursuing these instructions, the disease



will in its extent be more gradually contracted, until it becomes extinct.

Sorry I am to say, and the conviction of the truth is painful, that this country, of which the illustrious discoverer of vaccination, Dr. Jenner, is a native, an inhabitant *alone* among other nations (where the utility of this benign practice has been promulgated) has evinced decided proofs of opposition to its reception. The causes of this defection appear unaccountable (yet I fear the disinterested feelings of some medical practitioners may be doubted). It may serve however to the verification of an old proverb, "A prophet is not without honour, save in his own country."

How long will the people be blind to the merits of this discovery? How long insen-



sible of the vast privilege they are permitted to enjoy? Should they not join in the diffusion of such a blessing, and direct every energy to the extirpation of a pest which has long visited the land, and has occasioned the death of many millions?

Prejudice is a many headed hydra, and requires more than herculean strength to subdue it. Yet time effects much, and I trust that period will arrive when the inhabitants of these kingdoms shall preserve no other remembrance of the disease but its name; when posterity shall venerate the memory of Dr. Jenner, and regard him as one of the most eminent benefactors to mankind.

He now rests secure in his integrity, and possessing the "*mens conscia recti*," laughs to scorn the impotent and malevolent de-



signs of his adversaries, those base detractors of merit, to blast his well-earned reputation!

“*Veritas est magna, et tandem prevalebit.*”

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I have in my possession a very old book on the Theory and Practice of Midwifery, with black letter'd type, and curious though ill designed plates. It is entitled, “*The Birth of Mankynde, by Thomas Raynalde, Phisition,*” and is the first work ever published in English on the subject. The date is 1540, being eighty-eight years prior to the discovery of the circulation of the blood by Dr. William Harvey. Though not at all connected with the foregoing subjects, I shall, for the amusement of my medical readers, transcribe an extract from this work, that they may estimate the progress of science



from that remote period to the present, while they will be induced to smile at the vague and absurd opinions then advanced on different subjects. As a specimen, I shall give his ideas on the amnion, chorion, &c. which are really entertaining.

“The first and moste immediate, or nearest to the body of the conception, is a very thinne and cleare caule or skinne, whiche contayneth rounde about the whole feature, and yet is fastened to no part of the feature, but onely at the nauell, by certayne uaynes and artires, whereof we wyll speake anone. This caule in Greke is called amnios, in Latin agniua, for cause it is as delicate as lambes be. The midwifes commonly call it the coyfe or biggen of the chylde, and some call it the chyldes shert, the which also manye tymes proceedeth alone with the



chylde, eyther upon the chyldes head or one of y<sup>e</sup> armes or legges. And then the women reserve it as a thyng that shoulde be-token some great lucke to the chylde in tyme to come ; for they belieue that euery chylde hath not suche a coyfe, because it doth appeare but seldome alone, unaccompanied with the other caules. Between this wrapper or coyfe and the body of the infant, is collected and gathered the yelowish sweat which euaporeth continually from the skinne of the infant, whylest it is in the wombe.

“ The second wrapper or caule in Greke is called allantoides, in Latin farciminosa, in Englishe these two termes do signifie (haggiswise), for because that it is fashioned much after the shape and outward skinne of an haggisse pudding. The inner face and superficie of this caule is smoth and moyste,



fastened to no part of the first wrapper, but onlye at the nauell of the chylde, and containeth also rounde about in his compasse and cauitie, or hollownes, the whole chylde, and the saide first caule.

“ Betweene this and the first caule, is gathered together all the store of uryne that the chylde maketh duryng the time it is in the mothers wombe, wherein the industry of nature is to be lauded which so prouideth, that this pisse or uryne should be expelled betweene these two caules, and not remayne about the body thereof, lest with the acrimonye and eager sharpnesse hereof it should endamage and grieue the tender body of the baby.

“ The third wrapper of the feature is named chorion of the Grekes, in Latin



secunde or secundia, in English ye may call it the secundine: Albeit that in the second booke followying I do commonlye use to name y<sup>e</sup> whole afterbyrth, the secundine; and no doubt but the auncientes which gaue the name of secunde, or secundia to this wrapper, gaue the name of the whole to the part, for this terme secunde, or secundia, is proper and most due to the afterbyrth, the which afterbyrth is nothing els but an issuing forth, and proceeding of these three wrappers, or caules, together with such grosse excrementes as have been engendred and remayning in the wombe during the time of conception: and that immediately after the chylde is first proceeded and come to lyght; for first issueth the infante, and then secondlye, the foresaid afterbyrth; and therefore it may be justly called the second birth, or secundine.



This wrapper or caule then, doth not universally, and in euery part compasse and couer the infante as the other two wrappers do, but onely the myddle region, as it were from the upper part of the waste to the share of the infante, so that it is compassed with this wrapper as with a broade hoope rynge, the latitude or breadth thereof is commonly to be esteemed about the breadth of *vi* or *viii* fingers, and so girdeth the chylde round about the body, as it were a broade gyrrh or swadlyng bande; but yet ye must not understand that it should touche immediately the bodye of the infante; for betweene this and the bodye thereof (as I haue declared before) be the foresaid two other caules or wrappers, which generally incloseth rounde the whole corpes of the infante, whereas this hoope caule compasseth and couereth but the middle region thereof only.



The office and propertie of this wrapper is suche: first the utter face of it cleaueth and is affixed or basted verye exactly to the inner face and walles of the matrix, by means of innumerable smally uaynes and artyres, which at this tyme do shewe themselves more clearely in the face of the matrix then at any other tyme, the which also cleaue unto this hoope caule in euery part thereof, touching the same matrix; so that the said hoope caule, and the inner side of the matrix, be basted very thycke together, by the immediate meanes of the said vaynes and braunches, euen much lyke as the body of the juy tree basteth and fasteneth unto the walles or trees, whereby it creepeth by many hearie fibres or small threades.

This coniūction betweene the matrix and the hoope caule reacheth uniuersally



so farre, and so broade as the latitude and longitude of the hoope caule doth extende itselfe rounde about in the matrix. And these foresayde uaynes and artires do not only knyt and unite these two together, but also entreth into the substaunce of the hoope caule at euery part thereof. And within the sayd substaunce of the hoope caule these manyfold smal branches meete and entermingle with each other, the uaynes with the uaynes, and the artires with the artires (but fewer), tyll at the last all these become two great uaynes and two great artires, the whyche foure uessels from hence proceede together, passe and pearse through the other two caules spoken of before, and so entreth into the nauill of the chyld, so that the three caules by the means thereof be attached, nayled and fastened to the chilles nauille; and when they be entered



into the nauill the two uaynes degenerate in one, the which frō this place mounteth upward along the inner superficie of the belly, untill it haue attayned into the liuer, wher it entereth, divideth itself againe into many slippes, so that no doubt the blood is carryed through this nauill uayne from the uaynes of the mother's matrix into the liuer of the chylde, from whence againe it is attracted into al partes noryshable to the infante.

Agayne, the two artires passe from the nauyll downewarde, the one along the right syde of the chyldes bladder, the other along the left, tyll it attayne to the share artires, whereof we spake before. Through these artires lyuely spirite and freshe ayre is deriued out of the mother into the chylde,



wherewith the naturall heate of the chylde is uiuified and refreshed.

And these two artires, with the fore-sayde nauell uaine, when the chylde is borne, begin to wyther and drye every day more and more, and become more and more like a harpestring without any hollownesse or cauitie, yet ye shall note that there is another uessel, which taketh his originall at the bottome, founde, or upper part of the chyldes bladder, and extendeth itself to the nauyll of the infant, through which it passeth untyll it come betweene the fyrst and the seconde caule, without the chyldes bodye, whereby a priuie issue, deuised by nature for the same purpose, is expelled by this uryne uaine, which is within the body, when the chylde is borne, wythereth and dryeth away, as I sayde of the other.



The inner superficie, or face of this chorion, is very strongly affixed and fastened to the utter superficie of the seconde caule, named allantoides.

As for the bastyng that is betweene the matrix and chorion, many tymes it is weakened and effeoblised by reason of euyl flegmaticke or cholericke humours thereabout, betweene the bastinges conceaued, whiche overmuch habounding do clog the said bastyng vaines or stringes, whereby manye tymes the one seuereth the other before convenient season, and so causeth aborcement. The mouthes or specks of the uaines in the matrix, whereby it cleaueth to choriō, be called in Latin acetabula and cotiledones, for what cause or upon what reasō, is both nedeless and unprofitable here to be rehearsed. Agayne, the sub-



stance of this chorion is not thinne like as bladder or caule, but of al other partes of the bodye; it may be most worthily resembled to the spleane or melt in a man or beast; the corpulencie or thicknesse thereof is as much or more as the thicknesse of a man's thumbe, the colour swartishe black, of which colour also the blood therein conteyned, is as the remayne and the refuse of the purer, attract and drawen naturallie of the infante, by the above-named nauill uayne. So that to be short, chorion is the immediat receptacle and receauer of all the uaynes and artires, to be deduced from the matrix to the chylde, and the chylde onely receaueth at his hande the two uaynes and artires, which bye the waye as they passe thorow the other two caulles towards the chyldes navyle, they send to eche of the caulles innumerable small eye uaynes and



artires, whereby the caules be susteyned and encreased also."

This is an example of the false premises and ridiculous conclusions on which our forefathers grounded their opinions and practice. The whole work of one hundred and thirty one leaves (pages were not then numbered) abounds with such heterogeneous whimsicalities; and the author's invocation to the muses in his prologue, is truly diverting.



I cannot dismiss the subject of my original design without superadding some remarks on one of important interest to the community, as involving the general welfare. I have observed (and the observation has not been



confined to myself) that within these few years, those diseases which come under the class of Neuroses of Dr. Cullen, have been more prevalent than at any former period; such as Apoplexia, Paralysis, Hypochondriasis, Dyspepsia, with various hepatic disorders; indeed the latter prevail so much at this present time, that if you meet a person in the street with the ordinary salutation of "How d'ye do," the reply is, "Oh I am exceedingly bilious, and my whole family are bilious; we are all obliged to take calomel constantly, otherwise we could not exist." Here I must digress to deprecate the indiscriminate use of calomel. It is certainly an efficacious and useful medicine in those disorders where its use is appropriate; but without skill and judgment to direct it, it becomes highly injurious; there is a hazard in it; it is playing with edged tools.



From the register of the diseases in London, between December 20th, 1814, and January 19th, 1815, there are nineteen cases of apoplexy, nine of which were fatal ; of Dyspepsia, one hundred and fifty cases ; of Paralysis, thirty-three ; Morbi Biliosi, one hundred and forty seven.

These effects may I think be in some degree attributable to a cause, which shall be the subject of my animadversion. For some years past, from the time of the high duties put on malt, the brewers in London have resorted to an abominable adulteration of that potation, which is the standing beverage of the commonality, and have substituted for malt the deleterious berries of the *coccus indus*, and the *amomum grana paradisi*, a highly stimulant drug. A respectable wholesale druggist in town, on whose vera-



city I can rely, assured me that he had supplied a brewery with two tons of the *coccus indus* in one year. This pernicious practice has extended itself now throughout the kingdom. A set of miscreants, who call themselves *Brewer's Druggists*, travel for orders and elucidate to the country brewers the whole mystery. An elderly gentleman a country brewer, more noted for his garrulity than prudence, explained to me the secret : —he had been told that one pound of *coccus indus* was equal to one bushel of malt ; and two pounds of the grains of paradise were equal to another ; so that for two bushels of wholesome malt these were substituted ; and thus the inebriating properties of the berries, and the pungent stimulus of the grains, is regarded by the unsuspecting multitude as certain proof of the superior



strength of the liquor, little aware that they gulp disease in the potation.

Is it right? is it just that the health and lives of the community should be thus trifled with? If they ask for drink, should they receive poison? for so it acts, progressively occasioning a degree of debility in proportion to the excitement; thereby diminishing the tone of the stomach, and obstructing the due exercise of the organic functions in the whole of the chylopoetic viscera. The consequences are dire, calamitous, and often fatal; for from hence may subsequently proceed those diseases I have before enumerated.

Surely the utmost energies of the legislature should be directed to the remedy of so



prevailing an evil, fraught with incalculable mischief to the community at large. It is a species of deception which every honest mind revolts at; it is past endurance. Better far we should receive a genuine beverage faithfully prepared, however diminished in point of strength, than submit to the impositions daily practised endangering the existence of all that is dear to us. It is a national evil, and national efforts should be exerted to its extinction.

*Bristol, March 7, 1815.*



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The  
 Bristol, March 7, 1812.

Yours very truly  
 R. Rosser







