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THE BURTON CASE.

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BY

W. THORNTON PARKER, M.D. (MUNICH),

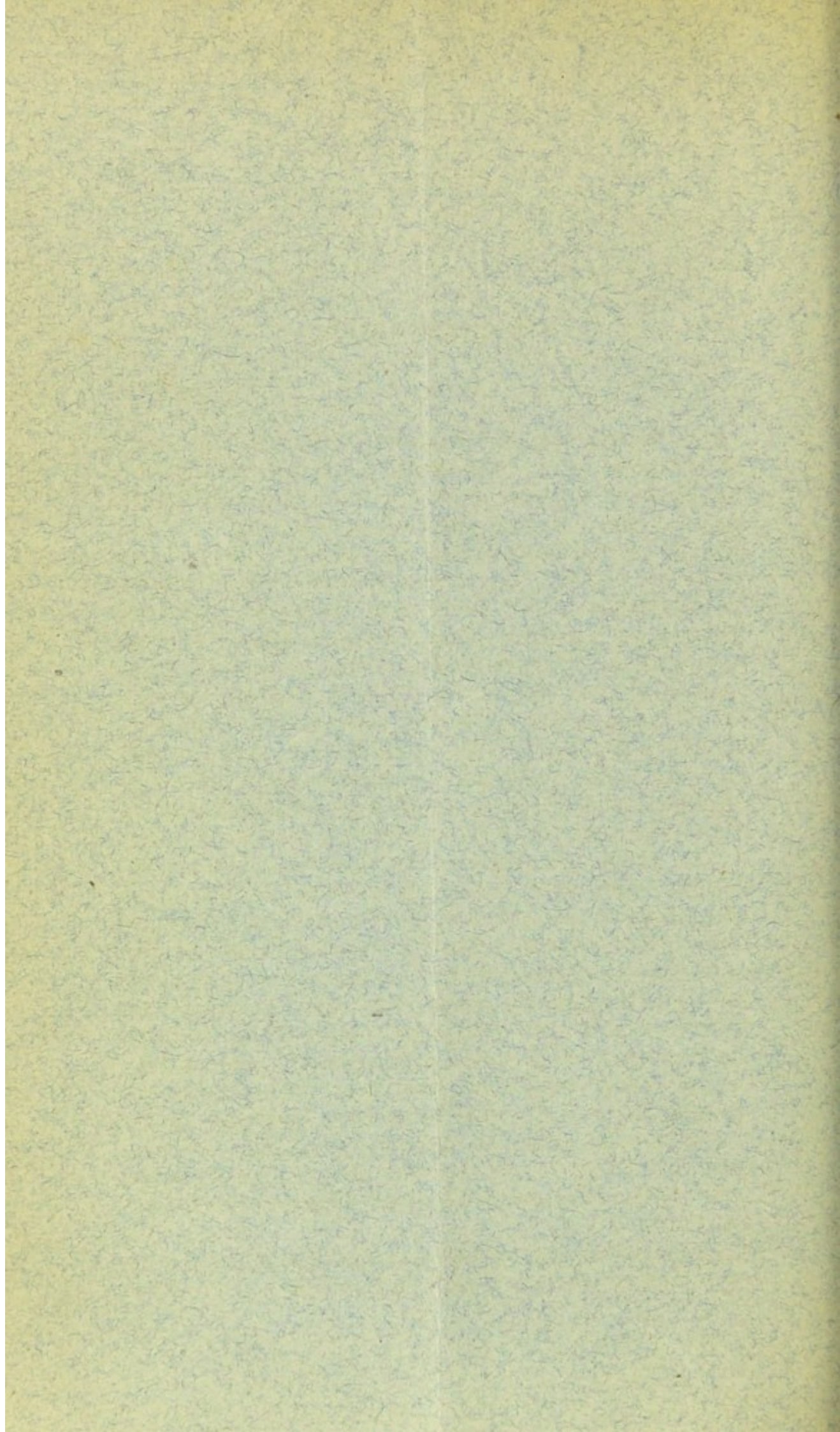
NEWPORT, R. I.

Medical Examiner 3d District, R. I., Member of the American Public Health Association, American Climatological Association, Boston Gynecological Society, Secretary of the Newport Sanitary Protection Association, Member of the St. John Ambulance Association, England, Council Member of the Section of Climatology and Vice-President of the Section of Anatomy, International Medical Congress, 1887, Provost of the Guild of St. Luke in the U. S. A., etc., etc.

Read in the Section on Medical Jurisprudence, at the Thirty-Eighth Annual Meeting of the American Medical Association, June, 1887.

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THE BURTON CASE.

On the morning of October 6, 1885, the quiet town of Newport, R. I., was startled by the report that Benjamin J. Burton, an industrious and inoffensive colored man, had committed suicide by shooting himself in the head and in the heart. The act was supposed to have been committed just after finishing his breakfast. The body was discovered lying on its back on the floor near the table where he had been eating. The body was stretched out—the head somewhat bent over to the right, the hands natural, the right open, the left not so much so; the legs were slightly separated. The revolver was about a foot from the body, the barrel pointed towards it. The mouth contained food slightly protruding from it. Upon the floor was a teacup tipped over on its side.

The Medical Examiner, the Coroner and the City Marshal were soon on the spot. The family physician was also present, and among the first to see the body. The case was decided as clearly one of suicide, and no inquest was considered necessary. It was reported that for some time the deceased had been in poor health and very despondent, and his children testified that he had threatened on more than one occasion to take his own life. He dreaded appearing in court, for which he had returned to his house from his office to make preparations. It was also stated that Mr. Burton had never fully recovered from a severe fall which occurred some months before his death.

Considering these facts no suspicion appeared to exist that the deceased had been murdered until after

the funeral, when rumors were circulated that a murder instead of a suicide had been committed. Finally the community became so excited by increased suspicions that the authorities were obliged to order an inquest. The physicians seemed assured that the theory of suicide was satisfactorily proved, and although they deemed an examination unnecessary, the authorities determined to seek further light.

At the time of his death Mr. Burton's family consisted of his daughter, Maria Dorsey, and her husband, Allen W. Dorsey, and a younger daughter, Emily J. Burton, a girl of 18 years. Mr. Burton was a widower. His house was a comfortable frame building, with enough room to enable the family to live comfortably and separately. Upon the morning of his death the son-in-law was supposed to be ill in bed. The son-in-law was a student of medicine at the University of Pennsylvania, and was making the necessary arrangements to complete his studies.

Soon after the account of the suicide had been published in the papers I expressed my opinion to the effect that the statements made at the examination concerning the supposed suicide were, in my judgment, impossible. The following is the report of the autopsy as communicated to me by the Acting District Attorney: "The ball, which entered the cranium on the right side, was found imbedded in the posterior part of the left lobe of the cerebrum, and had therefore traversed the cerebrum from front to back and from right to left.

"The brain, being much softened, could not be dissected, and the track of the ball could not be followed, but it was necessarily above the base of the cerebrum, and could not have touched the cerebellum.

"Such an injury might have been eventually fatal, and although it might induce immediate loss of consciousness, would not necessarily effect that result.

"The other ball penetrated the thorax at a point

three inches to the right of the left nipple and two inches to the left of the median line, on a level with the nipple. Having opened the chest, its contents were taken out and examined, and it was found that the ball had passed through the left ventricle of the heart, entering near the base and emerging at the apex, which would probably result in instant death. Afterward the ball passed between the seventh and eighth ribs, impinging on the eighth rib in a manner likely to deflect it from its direct course. The rib was taken out, and the flesh near the point at which the ball passed it was assiduously and minutely explored for an hour or more without success. As the ball was very small and the corpulence of the subject excessive, and as the finding of the ball could have no bearing on the object in view, it was concluded to be inexpedient to pursue the search further."

At the first examination Maria Dorsey, the wife, testified that the last she had seen of her father was on the night before October 5; that Mr. Burton called them all downstairs and said that he had something very important to say to them. He was despondent and said he would not be long with them; he felt badly about leaving the family, especially the younger daughter. He said he felt as if he had not long to live, probably not more than a few days at most. Mrs. Dorsey testified that she saw her father the following morning just before she went into a neighbor's "to fit on a dress;" that afterwards she went to the post-office, and then went right home again and went into the house by the front door, and thence through the dining-room to the kitchen and saw her father lying on the floor; called her sister and then ran for a neighbor, and then returned. She also testified that when she found the dead body of her father, her husband and her sister were upstairs. She left her husband sick in bed, and he did not come downstairs until after the discovery of Mr. Burton's lifeless body and her own return to the house. "We had

not been to breakfast at the time of the shooting"—neither her sister nor herself were in the kitchen when the father came to breakfast. It was about 9:15 when Maria Dorsey went into Mrs. Träger's. She was not present when her father's body was taken up from the floor. Mr. Burton usually ate his meals in the kitchen; did not know whether he had finished his breakfast or not at the time of the shooting; some one led her upstairs after she had seen her father's body. Her husband was studying to be a doctor, but had lived with her father ever since his marriage, although he paid no board either for himself or for his wife. Mr. Burton did not wish him to do so. Her father had never said a word to Mr. Dorsey or to herself about remaining at the house, and the best of feelings existed between them all.

The younger daughter testified that her father's age was 59, and that he enjoyed good health until the previous summer, when he had a fall. He seemed depressed since his fall; seldom said anything about the house. Before that he was accustomed to talk freely with them. His meals were generally prepared for him and left upon the table for him to eat at his convenience. Emily testified that on the morning of Mr. Burton's death she had eaten her breakfast alone, Mr. Dorsey being sick in bed, and her sister having gone away on an errand. As she went to her room she met her sister just starting to go out; she sat in her room reading until startled by her sister's screaming; she then ran downstairs to the kitchen—there was no one there, but her father's body was on the floor. She testified also that she saw Mr. Dorsey get out of his sick-bed. She confirmed the testimony of her sister relating to Mr. Burton's depression of spirits and to Mr. Dorsey, and also stated that Mr. Dorsey seldom met Mr. Burton, and that she never knew them to converse together. Debts and illness were the only reasons she could assign for the suicide.

Allen Dorsey testified that he was 25 years of age,

that he had known Mr. Burton by sight for several years, and that he had lived with him since the 15th of June; also that he was a student of medicine at the University of Pennsylvania. That he last saw Mr. Burton six days prior to his death, and next saw him lying dead in the kitchen. The screams of his wife first announced to him the death of Mr. Burton. He was ill in bed, but arose and dressed himself, and rushed downstairs and gave the alarm. The reason he did not examine the body when he found it in the kitchen was his anxiety to procure medical help, if possible to save Mr. Burton's life. He then went upstairs to his room to comfort his wife. Dorsey described the position of the body as follows: Right arm extended; a pistol near by, barrels pointed towards the body. From appearance of the body and the pistol near the hand concluded that Mr. Burton had committed suicide. Dorsey did not know, he said, until afterwards, where the shots had lodged. Dorsey also confirmed his wife's testimony as to Mr. Burton's ill-health. He affirmed that he had offered to pay Mr. Burton board, but that it had been refused. He denied that Mr. Burton had ever spoken to him in reference to leaving the house. He also denied ever having had any trouble with Mr. Burton.

The Medical Examiner testified that he had known Benj. J. Burton previous to his death; that he was called on the morning of October 6 to see his dead body. Dr. Francis had preceded him, and they moved the body from the floor to a table; that together they made an examination, with the results already detailed. He further testified that there was not much appearance, if any, of the hair being burned by the head wound, and that the revolver used was *so small that it might have been held near the head without burning*. He also thought that the pistol must have been held very near the head for the ball to penetrate as it did.

Dr. Palmer, of Providence, with the same pistol

and cartridges, proved by a series of experiments that the calibre of the pistol was large enough and the cartridges powerful enough to burn the hair beyond any distance which Burton could have held it, and that the positive inference from the unburned hair, which I had stated in the first of the examination, was that the head wound at least was not self-inflicted, and that the case was undoubtedly one of murder.

But the Examiner justified his theory of suicide by stating that at the time of Mr. Burton's death the friends of the deceased were absent, and that Dorsey and his wife said many things which convinced him that the deceased had premeditated suicide. This is precisely the attitude taken by the companions of Sergt. Rinn (about to be reported), and in my opinion should never be allowed to influence the opinion of the medical officer whose duty it is to carefully examine, weigh the evidence, make the examination, produce the bullets, and report. He considered the head wound hardly fatal, and the defense dwelt upon this question of fatality, and made their experts testify to the cases of extensive brain wounds already well known and recorded, in which the fatal termination had taken place only after a long time of comparative comfort.

The Medical Examiner stated that there was abundant evidence to prove that a man might live for years with a wound as serious as the wound which he had described. He considered that the heart wound was the second one inflicted, and then made the remarkable statement that "the wounds *could have been self-inflicted, but that this was more possible than probable.*" The Medical Examiner exhibited the ball found in the brain, and although it came from a 22-calibre pistol, yet it had been flattened to such a remarkable degree that its passage through the brain must have caused a very considerable degree of damage, tearing and lacerating that structure to a

very severe extent, and accomplishing as much harm as a smoother, rounder piece of lead, or bullet from a much larger pistol. At the inquest much of the testimony was in contradiction of that given by the children of the deceased, and it was shown that anything but a happy household existed, and that Mr Burton was strongly opposed to his son-in-law's living upon his hard-earned money; and that a decided change had been planned by which he should be able to rid himself of his son-in-law and of his daughter's support. The testimony also showed that Mrs. Dorsey's truthfulness could not be depended upon, and that Dorsey's conduct was certainly open to suspicion.

The Newport *Daily News* of Oct. 29, 1885, gives the following: "Dr. W. Thornton Parker testified: Am a physician of Newport, have heard about the case, have read the description of the wounds; had been an Acting Asst. Surgeon in the Army, and have experience in pistol-ball wounds. The very positive inference from the fact that the hair was not burned would be that the wound was not self-inflicted. It is barely possible that the pistol used in this case could have been held by the person shot. Should say the heart wound was the first inflicted (*if suicide and not murder was the cause of death*). If the head wound had been self-inflicted and the one first inflicted it would hardly have been *possible* for the heart wound to have been self-inflicted. (Dr. Parker produced a letter from Dr. Richardson, of Boston, a surgeon, to the effect that a self-inflicted heart wound might be followed by a head wound also self-inflicted, but if the head wound were self-inflicted loss of consciousness would follow, rendering a second shot impossible. Dr. Parker also read a report of a post-mortem examination made by him about a year ago, on Sergt. Rinn, U. S. A., at Ft. Union, New Mexico, the case being very similar in many respects to the one under consideration). Dr. Parker was of the opinion that if the head wound had been the first

inflicted loss of consciousness would have followed at once, and the second wound could not have been given immediately. The heart wound was, he should say, necessarily and instantly fatal. The fact of finding food in the mouth would make the theory of suicide extremely improbable. Suicide at the time of eating would seem inconsistent. The place of entrance of the shots and the course of the bullets would add to the suspicion caused by the presence of food in the mouth—a suspicion so strong that only a *remarkable exception could account* for the theory of suicide. The point of entry of both shots in my view is foreign to the view of suicide. The wound in the head directed by a suicide would be more likely to be upward than downward; and the heart wound backward."

During the first examination of Dorsey I wrote to Dr. Richardson, of Boston, for his opinion of the case. My letter was very brief, and gave only a few reasons for my suspicions. I append Dr. Richardson's answer, and also a telegram received by me during the examination.

SOMERSET CLUB, BOSTON.

"*Dear Doctor* :— I think with you that the theory of suicide is very improbable. It is possible I think for a man to shoot himself through the heart and retain consciousness long enough to make the second attempt, but it seems very improbable indeed. If the brain is first injured I believe unconsciousness must ensue and last for quite an interval of time, *after which* of course the second shot may be fired. This seems to me quite possible and I have no doubt it has been done by desperate patients. I can recall cases in which numerous shots have been fired into different parts of the body, but do not know of any case where the brain has been *perforated* first. The man may have used two pistols firing them at the same instant; but this has of

course occurred to you. I think the matter of burnt hair and clothing very important, as well as the part of the brain injured: if the medulla or its neighborhood was lacerated, it would render the firing of a second shot impossible of course. If the theory of suicide is to be established it seems to me it must be taken for granted either that the man used two pistols or that he fired the heart shot first, or that he fired the second shot sometime after the first which in that case was the head shot.

Very sincerely yours,

M. H. RICHARDSON.

"October 21, 1885."

The theory of Dr. Richardson that a self-inflicted heart wound might be followed by a head wound also self-inflicted is correct in a very limited number of heart wounds, and under exceptional circumstances, but in the heart wound of Burton, complete perforation of left ventricle, this theory would not apply; so that looking at the matter from either standpoint the case clearly is one of murder and not suicide. So too with the soldier whose post-mortem examination I have recorded *without remarks*. As assistant I performed the autopsy, but my Surgeon decided the case to be merely suicide, while to my mind the facts very clearly suggest murder. The two severe head wounds occurring so closely together, and the shots occurring so nearly together prove to my satisfaction that Sergt. R. was shot first in the heart and after falling was then shot by his murderer twice in the head. The room was then arranged to suggest suicide, and the mirror was a superfluous addition to the preparations described. The following is the record of the autopsy referred to in first examination:

"*Record of Post Mortem Examination by Dr. W. T. Parker, 'F. A. R.,' U. S. Army, Ft. Union, New Mexico. From Kansas City, (Mo.) Medical Index, Aug., 1884. Time of post-mortem 11.30 A.M., April*

20, 1884, 5½ hours after discovery of the body, and presumably about six hours after death.

"General appearances. Body of a man about 29 years of age, well nourished, healthy appearance. Mouth partly opened from which some blood had been flowing. Eyelids partly open, particularly right one. *Rigor mortis* commencing. Upon the head, in the right parietal region, three inches above right ear, are two bullet wounds, one above the other and about an inch apart. The hair around the wound is somewhat burnt, bloody and blackened with powder, indicating close contact with the weapon used. On the thorax two inches in a straight line to the right of the left nipple is a third bullet wound. The under surface of the body is deeply stained (stasis). An incision extending from the right ear upwards across the head dividing the muscles of the scalp discovers two bullets, flattened to a remarkable extent—and imbedded in the soft parts. Parts surrounding the wounds on the head slightly swollen and infiltrated with blood. The skull is neither broken nor indented.

"Examination of the Thorax. Pericardium distended with semi coagulated blood. The heart weighs 10 ounces. A large bullet wound is found completely penetrating the left ventricle obliquely backwards. The left lung presents strong pleuritic adhesions. At its roots is found the third bullet, slightly scratched by contact with the rib in its passage to the heart. Right lung normal. Other viscera not examined.

"Remarks.—The deceased was first seen about 6 o'clock A.M., Sunday, April 20, lying on the floor face downwards. Near by was a hand mirror not broken, supposed to have been used by the deceased in the suicidal act. A pistol of the British bull-dog pattern, containing three shells, was found close by his left hand. About an ounce of blood was found under his mouth which had escaped from the lung. His white shirt was blackened in the vicinity of the chest-wound and somewhat stained with blood. Two

blood-stains from wound in head extended across the face from right angle of mouth. The body was slightly warm when found. *Rigor mortis* rapidly extending. No papers were found on the body. In the pockets of the deceased were a few nickels, a handkerchief and twelve pistol cartridges which correspond with those in the pistol which had been fired into the body. The body was fully dressed and the doors of the room unlocked."

The case was reported as one of suicide—I am not willing to affirm that it was not a case of murder. It was certainly a very suspicious case and should have received a very rigid examination.

To aid me in the difficulties of my position as medical expert for the State, and to bring together the opinions of medical men of great experience and of high professional standing, I prepared the following circular and mailed it to many who would be expected to take interest in the medico-legal questions involved :

Dear Doctor :—I desire to call your attention to the following facts, and to ask your reply to the questions, at your earliest convenience.

A middle-aged man enjoying good health and owning a comfortable home is found on the floor of his kitchen—dead.

He is supposed to have been in the act of eating his breakfast, food is found in and protruding from his mouth, so that at the moment of receiving the fatal shot *he was sitting quietly alone at his own table!* Witnesses declare that two shots followed in rapid succession—first a shot, then a heavy fall, and then a second shot. A 22 cal. pistol is found on the floor not far from the deceased, presumably placed there by the murderer to carry out the theory of suicide! Upon examination it is discovered that one bullet, probably the first, entered the cranium in the right parietal region, passing through the skull and contents and "was found embedded in the posterior part of the left lobe of the cerebrum and had therefore traversed the cerebrum from front to back and from right to left." The physicians who first examined the body found no evidence of the hair about the wound having been singed to any extent whatever.

The second shot "penetrated the thorax at a point three inches to the right of the left nipple, and two inches to the left of the median line, the ball was found to have passed through

the left ventricle of the heart, entering at the base and emerging at the apex." The clothing where the bullet perforated it, is burnt, and shows unmistakable evidence of close contact with the pistol when it was fired!

Assuming that this report is correct, is the theory of suicide compatible with the facts?

It is not claimed that the brain wound was necessarily *fatal*, but would not a bullet wound penetrating the skull and traversing the brain cause an amount of unconsciousness, or at least confusion of ideas, for sixty or even one hundred seconds, sufficiently profound to prevent the suicide from immediately re-cocking the pistol, and discharging it into his heart?

If immediately following the first shot, the man fell heavily to the floor, and *immediately* after that the second shot was heard, does such evidence not prove *murder* instead of suicide?

Could it be possible for a man to shoot himself in the head in the manner described, and then after falling, *immediately* to successfully recock, and aim the pistol, and discharge it within two minutes from the reception of the perforating wound of the skull and brain?

Does not the fall clearly prove temporary loss of consciousness?

Considering the facts as stated, is not this very clearly and beyond doubt a *case of murder*?

Very respectfully yours,

W. THORNTON PARKER, M.D.

The following are some of the more important answers received. Some replies of value I am not permitted to publish.

Surgeon-General F. M. Gunnell, U. S. N., writes: Your circular letter has been read with interest by the Medical Officers here, who concur in the views formulated by one of them, which I enclose. The views of this officer are as follows:

1. The pistol *is not found in the hands* of the deceased, but on the floor "not far from the deceased."
2. One bullet—*probably* the first—"no evidence of the hair about the wound having been singed," etc. The pistol shot was *fired from a short distance* and *not in close proximity*. The track of the wound is "from front to back and from right to left." Now prolong this track in an imaginary line, consider not in close proximity to singe the hair and hold a pistol

in the right hand and note the position of hand, wrist, elbow, and shoulder-joint and the position of the pistol in the line stated. 3. The fall occurs immediately—there is loss of consciousness and *power of coördinating movements* and this removes the probability of the wound in the thorax being first inflicted. The position of the body when found is not given. Was he found on either side or on back? for there was a wound.

“Penetrated the thorax at a point three inches to the right of the *left nipple* and two inches to the left of the median line, the ball having passed through the left ventricle *entering at the base and emerging at the apex.*” Prolong the track of this wound, place the deceased in a prone position and again place the right arm in the position of firing the pistol and note the close proximity of the muzzle to the clothing.

From the facts, it is not possible that the wound of the heart was the first inflicted. A wound of such character does not permit the element of time taken by the fall, added to the cocking and firing and motion necessary to bring the arm in position to inflict the wound of skull and brain. Suicide is not compatible with the facts as stated. The fall was from unconsciousness, and it is not possible that there was time for recovery in any degree to recock the pistol, and correlate the movements necessary to inflict the second wound in thorax and heart. The track of the wound in the heart precludes any supposition that the movements of recocking, aiming, firing and the positions necessary to inflict such wound could have occurred after the wound of skull and brain. From the facts as stated the opinion is that the case was *murder*.

Dr. Thomas G. Morton, of Philadelphia, wrote: “I presume this is the same case in which I gave a written opinion some months since.” He did not consider the theory of suicide compatible with the facts, and in answering all the questions sustained the theory of murder.

Dr. Bigelow, of Boston, wrote: I think the evidence leans so far towards homicide, that the onus lies with those who believe in the suicide theory to prove it.

Dr. Simon Baruch, of New York, wrote: Considering the facts as stated, this is very clearly and beyond doubt a case of murder, but there is better proof in the direction taken by the second bullet (if that is correctly stated). It is utterly impossible for a man to so apply the point of the pistol to his chest as to send a bullet from the barrel towards the apex of the heart. And it is highly probable that such a wound was inflicted by some one standing or kneeling behind the victim's left shoulder. . . . The theory of suicide is absurd. It may be claimed that by the use of both hands a pistol may be so applied to the chest as to send a ball in the direction claimed, but even this view would be rendered untenable by actual trial; the adjustment of the pistol would require great precision and steadiness of hand *and considerable time for its execution.*

The last statement of Dr. Baruch is important when we consider the facts connected with what seems to be the murder instead of suicide of Sergt. Rinn, U. S. Army.

Among those sending positive answers in favor of the murder theory were: Dr. Dolan, of the *British Provincial Medical Journal*; Dr. Proctor Thayer, of Cleveland, O.; Dr. A. B. Lyman, Baltimore, Md.; Dr. T. D. Crothers, Hartford, Conn.; Dr. Chas. B. Parker, Cleveland, O.; Prof. F. W. Draper and Dr. M. H. Richardson, Boston, Mass.; Prof. T. G. Morton, Philadelphia; Dr. Hunter McGuire, Richmond, Va.; Prof. W. L. Davis, Chicago, Ill.; Prof. Chas. B. Nancrede and Dr. John H. Packard, Philadelphia; Dr. Henry I. Raymond, U. S. Army; and a few other well known surgeons whose names cannot be made public, some connected with the U. S. Army, and some resident in New York City.

Dr. John H. Packard, of Philadelphia, besides sustaining the theory of murder, in answering the questions of the circular letter wrote as follows: In regard to the case stated in your circular received to-day, I think the existence of two such wounds is conclusive against the idea of suicide. The order of the wounds is not so clear. The murderer may have fired the first shot from some distance and then advanced and fired again, holding the pistol close to the front of the chest, in which case the victim would probably have been lying on his back when found. Or, firing first very close, he may have fired again at the victim's head as he was going away. Either of the wounds would, I think, have prevented the self-infliction of the other.

Dr. D. Hayes Agnew, of Philadelphia, wrote: If you will read my letter over carefully you will discover I use no such language as you credit me with saying. I have never said that the case was one of suicide or of murder, for of that I do not know. I have said, and say again, that if the conviction of the prisoner is based entirely on the fact that a man cannot shoot himself in the head and in the heart, or vice versa, with his own hand, he will be unjustly convicted. More than this I cannot say until I have heard both sides of the question. What little has been communicated to me *differs in several respects* from the statements which you have furnished. My informants may be in error, or there may be points which have been withheld from yourself.

Many surgeons and physicians in replying stated that suicide was *possible* but not probable; but many more refused to send any reply. One well known editor wrote: I invariably dodge expert questions, knowing that "things are not always what they seem." In this case they seem very much like a brutal murder, but further deponent sayeth not.

With one or two exceptions only, no letters sustaining the suicide theory were received.

The following medical gentlemen appeared for the State, and sustained me in every theory advanced in the circular letter already referred to: Prof. F. W. Draper, Boston; Prof. M. H. Richardson, Boston; Dr. McClellan, Philadelphia; and Dr. Palmer, of Providence. Prof. H. R. Storer also sustained throughout the theory of murder, and aided me greatly in the work by encouragement and advice, but declined to appear as expert. It was greatly regretted that the services of Dr. Fish, of Amherst, Mass., could not have been secured for the State.

The objectors must admit that the pistol found, or some other pistol, must have been the means of expelling the fatal bullets. Therefore, when the pistol was fired, either by the murderer or the suicide, it must have had a *position somewhere*. Then place the pistol where it could send a bullet, without the explosion from the powder burning, singeing or staining the skin, and through the skull bones and brain. Could a thick-set, clumsy man, unfamiliar with fire-arms, hold a pistol and fire it in any such position against himself as a suicide must have held it? Certainly he could not. Then consider the other shot, first or second, as one may choose; this entered the left ventricle and passed through the heart, emerging at the apex. Could such a man as already described hold the pistol to do this?

The writer is familiar with most of the cases brought forward by the defence to prove how tolerant the brain is of severe injury, notably "the case of the iron bar," as it has been termed, and which is so well known to the students of the Harvard school, and to most of those who will read this paper. As stated in my circular, "It is not claimed that the brain wound was necessarily *fatal*, but would not a bullet wound penetrating the skull and traversing the brain cause an amount of unconsciousness, or at least confusion of ideas, for sixty or even one hundred seconds, sufficiently profound to prevent the

suicide from immediately recocking the pistol and discharging it into his heart?" This a large number of prominent surgeons have answered in the affirmative.

The question of the ability of a 22-calibre cartridge, when exploded, to burn hair, is settled in the affirmative by the very careful and complete experiments of Dr. Palmer, of Providence, who used the same cartridges as found in the revolver, and the identical revolver supposed to have been used in the murder. In every experiment he proved beyond a doubt that it was absolutely impossible for Burton to have held the pistol and inflicted the wounds without at the same time burning the hair and staining the surrounding tissue. This fact alone must have *proved* beyond doubt the theory of murder as the only one tenable in view of these conditions, as conclusively testified to by the medical examiner and other competent medical witnesses. This absence of burned hair or staining was one of the first facts obtained by me in determining that it was a case of murder.

The records of the Surgeon-General's office and the experience of surgeons prove beyond a doubt that the usual result of a severe penetrating bullet-wound of the head is a certain amount of immediate unconsciousness, evidenced usually by a fall. The remarkable exceptions are not to be used as evidence to support the theory of suicide. As Prof. Bigelow has stated, the *burden* of proof rests with the advocates of the suicide theory. It is for them to prove suicide. The State should not be put on trial to defend a position so reasonable, but *the defense must prove* that the reception of a penetrating bullet-wound of the skull and contents is not necessarily followed by unconsciousness. The overwhelming evidence of the past fifty years of surgical history demonstrates to the unbiased observer that Mr. Burton could not have inflicted upon himself the wounds

which destroyed his life. Such evidence cannot be gainsaid or resisted, and how it can be answered differently it is hard for me to understand.

In the case of Sergt. Rinn two shots were fired at the head, entering the scalp within two inches of each other. Is it probable that a suicide would select two places so near together? The bullets which struck Sergt. Rinn's head were large and came from a powerful British bull-dog pistol. These bullets must have struck the head with terrific violence, since when discovered by the knife at the post-mortem they were found to be flattened to a remarkable extent. Is it reasonable to suppose that after two such staggering blows this man could shoot himself in the heart? Was not the placing of the hand mirror a mere subterfuge to suggest suicide and hide the murderer?

It was claimed by the defense that suicides very commonly select the head as a target for the suicidal shot. However much truth there may be in this statement, it must be equally true that when such a wound is inflicted powder stains or burning must necessarily follow; but the main objection to the argument in connection with the Burton case is, that *immediately* after accomplishing this penetrating pistol-ball wound of the brain the supposed suicide was able to accurately place, hold in position and discharge for the second time the pistol sending the ball into the heart. This is, in all human reason, an impossibility, and not *one case* can be brought forward to illustrate this extraordinary theory. The defense asks us to believe too much, forgetting that the burden of proof rests with them and *not* with the State. But when within a few moments of the murder it was discovered by at least one competent surgeon that no burning of the hair or staining of the flesh had taken place, and at the same time, if a case of *suicide*, the pistol was obtainable for inspection, then the suspicion of murder should have increased to such an extent as to lead to the immediate decision of a

premeditated homicide, and should have demanded immediate action by the police authorities.

The question of the amount of *time* after the receipt of a wound in the brain, before unconsciousness would ensue, has provoked very much discussion. It seems to me that in ninety-nine cases in a hundred there is more or less immediate shock, varying all the way from slight bewilderment and loss of reasoning to absolute loss of sense. This is one of the most important questions connected with the case, and the plea of "possibility" is the plea only of *possible exception*, which in point of fact only proves the rule.

Considering the facts as stated, is not this very clearly and beyond doubt theoretically a *case of murder*? Practically it terminated as follows: Maria Dorsey, the elder daughter, completely broke down upon the evening following the expert testimony for the State. To a friend she said that the testimony of the five medical experts was more than she could endure, and so gave up a full confession. The senior counsel abandoned the case, the jury soon brought in a verdict of guilty for both Maria and her husband, Allen W. Dorsey, and they were promptly sentenced to State's Prison for life, the extreme penalty in Rhode Island. To complete the case, Dorsey himself confessed his awful crime, and so the famous case ended.

