

**The trial of Joseph Hodges for carnally abusing one Maranata Freestone, a girl under ten years of age, and sentenced to twenty years penal servitude / by Jonathan Wybrants.**

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THE TRIAL

OF

JOSEPH HODGES

FOR CARNALLY ABUSING ONE

MARANATA FREESTONE,

GIRL UNDER TEN YEARS OF AGE, AND SENTENCED TO  
TWENTY YEARS PENAL SERVITUDE;

BY

NATHAN WYBRANTS, M.D.,

Licentiate of the Royal College of Physicians, London;

Fellow of the Royal College of Surgeons, England;

Licentiate of the Apothecaries' Hall, London;

And Member of the British Medical Association.

"A multitude of persons have been hanged by such a mistake."—*Sir Astley Cooper.*

"It is an accusation easy to be made and hard to be proved; but harder to be  
ended by the party accused—though innocent."—*Sir Matthew Hall.*

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SHEPTON MALLET:

PRINTED BY ALBERT BYRT, HIGH STREET.  
1861.

# THE TRIAL

OF

JOSEPH HODGES

FOR GABRIELLY ABUSING ONE

MARLYATA RIFESTONE

ON THE 17TH DAY OF APRIL, 1861, AT THE  
COURT OF COMMONS, LONDON.

BY

JOHN A. WYBANT, M.D.

ESQUIRE OF THE ROYAL COLLEGE OF PHYSICIANS, LONDON;

OF THE ROYAL COLLEGE OF SURGEONS, LONDON;

OF THE ROYAL COLLEGE OF DENTISTS, LONDON;

AND MEMBER OF THE LANCET MEDICAL ASSOCIATION.

PRINTED BY ALBERT, BRYN, HIGH STREET, LONDON.

1861.

Somerset Summer Assizes, }  
Wells, August 3rd, 1857. }

*The Queen, on the prosecution of John Butler, v. Joseph Hodges,*

For carnally abusing one Maranata Freestone, a girl under ten years of age.

*Brief for prosecution.*

The prisoner, Joseph Hodges, is indicted for the following offence :—For that he, the said Joseph Hodges, on the twenty-fourth day of July last past, at the parish of Shepton Mallet, in the said County, did unlawfully assault one Maranata Freestone, a girl under the age of ten years, to wit, of the age of eight years, and her, the said Maranata Freestone, did, unlawfully and carnally know and abuse.

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*Copy of Depositions as taken before the Committing Magistrates,  
3rd August, 1857 :—*

*Maranata Freestone*, on her oath saith as follows :—I live with my uncle and aunt, Thomas and Caroline Freestone, at Catsash, in Shepton Mallet. The prisoner, Joseph Hodges, works at velvet weaving in my aunt's house. In the afternoon of one day in the week before last, I got upon the loom the prisoner was working at to get a wigwam used in velvet weaving; the prisoner put his hand up my clothes and I got down; he then took me in his lap and kissed me; he then undid his breeches and took out a long thing and hurted me; I could not think what it was; he took up my clothes and put it between me; he was doing this three or four minutes; I cried out and he put me down. Last Saturday I told my aunt, Caroline Freestone, what Hodges done to me. My father and mother are living at Warminster, I am between eight and nine years of age. The mark X of Maranata Freestone.

*Caroline Freestone*, on her oath saith as follows :—I am the wife of Thomas Freestone, and reside at Catsash, in the parish of Shepton Mallet, Maranata Freestone is my niece, and has been brought up by me from childhood. I take in people to learn them velvet weaving. The prisoner, Joseph Hodges, has been learning the trade at my house during this summer. On Saturday last, in the morning, when my niece was getting up, I remarked that her shift was stained; I showed it to my neighbours, who said they thought it was the bad disorder. During the same morning the prisoner came in. I said "Joe, I am in a deal of trouble about the child, he replied "I thought there was something the matter, Carry, you seem so dull;" I told

him what the neighbours thought; he said "If I was you I should keep that quiet." In the evening of the same day I went to Mr. Hudson, the parish doctor; I showed him my niece's linen; he asked if the child had been with any person, I replied "I did not think any such thing, as I kept her very strict; he then said it must be the heat of her inside;" he gave me some medicine for her to take, and I took her home. Mr. Hudson did not examine the child; when I got home I questioned my niece as follows:—Now my dear, you tell me what is the matter with you, and if any one has touched you? she said "No." I said "They must for what you have got about you would prove it;" she cried; I said if you tell me the truth, if any person has touched you, I will get you something that will do you good, but if you dont tell me you will surely die. She cried, and then said, "Is Joe coming back again?" I said "No." She said if I would'nt tell him she would tell me; she then said, one day while I was out, the prisoner put his hand under her clothes, and afterwards sat in her uncle's chair and had connexion with her. In consequence of this I took her to Mr. Hudson yesterday morning; he examined her. The prisoner had finished his work on Friday, he having completed the two pieces of velvet which is sufficient to learn the trade. My niece was eight years about last Easter.—The mark X of Caroline Freestone.

Cross-examined by the prisoner.—Did I not recommend you to take the child to the Doctor? Answer, I never heard you.

*Thomas St. John Hudson*—I am a surgeon, practising at Shepton Mallet. On Saturday morning last, the last witness, *Caroline Freestone*, brought the child *Maranata Freestone* to me and shewed me her linen, which was very much stained. I asked her if she had been ill before; She said "No;" I then asked the child if any one had been playing or taking liberties with her; she said there had not. She complained of her private parts being sore. I did not then examine the child, and thought the discharge arose from the heat of her inside. I gave the aunt some medicine. Yesterday morning the aunt came with the child again, I examined her person and found her private parts inflamed. She had also a discharge of Gonorrhea. I have no doubt in my opinion that the child *Maranata Freestone*, has been abused by a man, which has caused the disease. I have since examined the prisoner's shirt, and find it stained with a discharge. On the second visit of the child to me, she stated that the prisoner had had connexion with her.—T. St. J. HUDSON.

Taken and sworn before us, R. LECKONBY PHIPPS.

EDWD. H. DICKINSON.

Copy of statement made by prisoner:—I am really not guilty of the charge alleged against me. Verdict—*Guilty*. Twenty years penal servitude.

Joseph Hodges was arrested on Monday, the third day of August, one thousand eight hundred and fifty seven, and committed by the magistrates, the same day, for trial. Two days after he was tried at the Somerset Assizes, held at Wells. He was found guilty and sentenced to twenty years penal servitude. He was very poor, having spent his all in learning to weave velvet, at the house where the child Maranata Freestone lived, and instructed by the aunt Caroline Freestone, (see the depositions.) After he had learnt the business he left the house for the purpose of making a living. A short time after he was brought before the magistrates. Owing to poverty the unfortunate man was not defended, either before the magistrates or at the assizes, and the witnesses were not cross-examined. The only reason for accusing Hodges of the crime was, because he was the last person that learnt the velvet weaving in the house. After Mr. Hudson asked the unfortunate child if any person had been with her, some one must be fixed upon, and lo! the lot fell on Hodges. The most virtuous might have been accused in the same way. Had the girl fixed upon one of the magistrates or Judge Coleridge, unless defended, they would no doubt have been found guilty; and I believe that Joseph Hodges is as innocent of the crime that he has been found guilty of as any of the three.

Mr. John Nicholls, surgeon, of Wells, swore that Joseph Hodges was not bad with gleet or gonorrhea: therefore he could not have infected Maranata Freestone. I examined Joseph Hodges on the day that he was arrested, and certified that he had neither gonorrhea or gleet; the certificate was produced at the trial but not received in evidence.

The day after the trial I examined Maranata Freestone in the presence of Mr. Hudson, the surgeon for the prosecution: she had no mark of violence on her person.

Having no doubt whatever but that the prisoner was innocent, and also that the girl was not suffering from gonorrhea, I drew up a statement of the case, which Mr. Dickinson, one of the magistrates who committed him, had the goodness to forward to Judge Coleridge and to the Secretary of State. Unfortunately it was not successful, as will be seen by the following letter:—

12,039. Whitehall, 31st October, 1857.

Sir,—Secretary Sir George Grey having carefully considered your application in behalf of Joseph Hodges, I am directed to express to you his regret that there is no sufficient ground to justify him, consistently with his public duty, in advising Her Majesty to interfere with the prisoner's sentence.

I am, Sir, Your obedient Servant,

W. WADDINGTON.

Edmund H. Dickinson, Esqr.,  
Shepton Mallet, Somerset.

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I heard nothing more of Joseph Hodges until the Rev. H. Pratt, Rector of Shepton Mallet, handed me the following letter, asking, at the same time, what I thought of him, and if anything could be done for the unfortunate prisoner.

Medway Walk, Convict Establishment,  
Bermuda.

To the Rev. H. Pratt,  
Reverend Sir,

In presuming to address you, it is with a view of obtaining some information relative to the success of the petition which your Reverence so very kindly forwarded in behalf of your humble servant, and I consider it my duty to return you a letter of thanks for your intercession. I should have written sooner but thought it best to allow your Reverence plenty of time to receive an answer to my petition. You will not be surprised when I inform you that I am extremely anxious to receive a letter from your Reverence stating all particulars. Your Reverence has always proved a good friend to me, and I trust I have always endeavoured to merit your good opinion, for I can assure you that I have since conviction, borne a very excellent character, so that you perceive that your good counsel and fatherly advice has not been in vain, for it is with feelings of something akin to repugnance that I look back upon my past errors, and fain would bury them in the vortex of oblivion and forgetfulness; but as regards my last crime, your Reverence is aware how entirely innocent I stand. But I will not waste either time or words in recalling to remembrance the harrowing thoughts. It is a very melancholy fact to reflect on what the fate of that young woman has already been, and what it may eventually be; but God knows I bear her no malice, and trust she will learn by her own experience what a bitter thing it is to injure a fellow creature.

In conclusion, give my best respects to all inquiring friends and well wishers, and accept the same yourself, wife, and family, and don't forget to write to me as soon as convenient, and the prayers of your humble servant shall follow your Reverence all the days of my life.

I subscribe myself,

JOSEPH HODGES.

Having no doubt that Joseph Hodges was illegally sentenced to twenty years penal servitude for a crime, he never committed, I drew up and forwarded the following, with a copy of the depositions, to various eminent medical men, and requested their opinion on the case; most of them strangers to me except by reputation. I now beg heartily to thank them for the trouble they have taken; and trust by their means that truth may be elucidated and the prisoner be pardoned; but above all that it will open the eyes of judges, magistrates, and lawyers, not to be again deceived by forced and ignorant witnesses.

“ On Monday, the third day of August, 1857, I examined Joseph Hodges at the Shepton Mallet gaol; he had neither gonorrhea or gleet; he had not the complete power of retaining his urine, this he called gleet; I am ready to swear that he had no discharge of gonorrhea or gleet, or any other infectious disease.

On Thursday following I examined Maranata Freestone in company with Mr. Thomas St. John Hudson. She was suffering from inflammation and purulent discharge of the vagina labia, and with slight ulceration, a disease common to young females of her age. I have no hesitation in swearing that she had not gonorrhœa.

Mr. Thomas St. John Hudson thought it must be gonorrhœa, because the discharge was stained with blood. I then pointed out to him the ulceration, which caused the discharge to be bloody. I endeavoured to introduce my little finger into the vagina, and could not succeed because it was so very small, this I also pointed out to Mr. Hudson, who at once admitted that penetration could never have taken place—therefore no rape proved.

About that time I had five cases of the same kind under my care, and had been ignorant of the nature of the disease, and attributed it to impure connexion, five men would now be suffering penal servitude for a crime they never contemplated. One of the children confessed (mind, after being threatened) that a labouring man had connexion with her when riding in a cart on Mendip to get hay; both father and mother believed the statement of the child, and I had the greatest difficulty to prevent them going to Colonel Shipp to obtain a warrant for his apprehension. When this child was under treatment, a younger sister was affected with the same disease, who had no opportunity of being abused by any man; this at last convinced the parents of their mistake, and opened their eyes to the great mischief they were near doing. I may naturally ask what a dreadful thing it would have been, had the surgeon ignorant of the disease been consulted.

Mr. Hudson first, and before examining Maranata Freestone, asked her if any one had been playing or taking liberties with her: she said there had not. Her aunt, Caroline Freestone, (who has since eloped with another man) took her home and said to her “ Now, my dear, you tell me what is the matter with you, and if any one has touched you; ” She said No; I said they must, for what you have got about you would prove it; she cried; I said if you tell me the truth, if any person has touched you, I will get you something to do you good, but if you do not tell me, you will surely die; she then cried, and confessed that Joe put his hand up her clothes and had connexion with her.

It is worthy of remark that Mr. Hudson came to the conclusion, that she, Maranata Freestone, had gonorrhea, and was abused by a man after her forced confession, which confession never would have taken place, had he not put the question to the unfortunate child. I told Mr. Hudson that at the time Hodges would have been hung on his testimony; he said if it was a hanging matter he would not have given evidence against him.

Sir Astley Cooper states in his lectures, page 541, "There is a circumstance which I am exceedingly anxious to dwell on, I allude to a discharge from young females, and I hope there is not one here this evening, but will be strongly impressed with the importance of the subject. Children from one year old, and even under, up to the age of puberty are frequently the subject of a purulent discharge from the pudendum, chiefly originating beneath the preputium clitoridis: the nymphæ orifice of the vagina; and the meatus urinarius, are in an inflamed state and pour out a discharge.

"The bed linen and rest of the clothes are marked by it. It now and then happens to a nervous woman to be alarmed at such an appearance, and she suspects her child to have acted in an improper manner, and perhaps not quite clear herself, she is more ready to suspect others, and says, 'Dear me (if she confesses) it is something like what I have had myself.'

"She goes to a medical man, who may, unfortunately, not be aware of the nature of the complaint I am speaking of, and he says 'Good God your child has got the clap' (a laugh.) A mistake of this kind, gentlemen, is no laughing matter, and though I am glad to make you smile sometimes, and like to join in your smiles, I cannot do it on the present occasion, for it is too serious a matter; I can assure you a multitude of persons have been hanged by such a mistake."

"I will tell you exactly what takes place in such cases:—the mother goes home, and says to the child, 'Who is it that has been playing with you, who has taken you on his knee lately.' The child innocently replies 'no one mother, nobody has, I declare to you.' The mother then says 'Oh don't tell me such stories, I will flog you if you do'—and thus the child is driven to confess what never happened, in order to save herself from being chastised. At last she says, such an one has taken me on his lap. The person is questioned and firmly denies it, but the child, owing to the mother's threats, persists in what she has said. The man is brought into a Court of justice, a surgeon who is ignorant of the discharge I am now speaking about, gives his evidence, and the man suffers for that which he never committed.

"The mother is persuaded, if there be a slight ulceration of the parts, that violence has been used and a rape committed. She immediately says,—'What a horrid villain must he be for forcing a child to such an unnatural crime, and communicating such a horrible disease; I should be glad to see him hanged.'

"If I were to tell you how often I have met with such cases, I should say that I have met with thirty in the course of my life. The last case I saw was in the city:—a gentleman came to me, and asked me to see a child with him, who had a gonorrhea on her. I went, and found that she had a free discharge from the *preputium clitoridis*.

I said that there was nothing so common as this. There was considerable inflammation, and it had even proceeded to ulceration, which I told him would soon give way to *liquor calcis*, with calomel. "Do you tell me so," he

replied, 'Why suspicion has fallen on one of the servants, but he will not confess.'

"If he had appeared at the Old Bailey, I should have given my evidence against him, for I was not aware of what you have just told me.' I told him, that if the man had been hanged by his evidence, he would have deserved to be hanged too."

From all I know of the nature of the disease, both by reading and practice, I am certain that Joseph Hodges is innocent of the crime he is now suffering penal servitude for.

JONATHAN WYBRANTS, M.B., Shepton Mallet.

*Licentiate of the Royal College of Physicians, London; Fellow of the Royal College of Surgeons, England; and Licentiate of the Apothecaries' Hall, London.*

The only medical evidence against Hodges, was that of Mr. Hudson, the surgeon for the crown, who swore that he (Hodges) must have had connection with Maranata Freestone, to have produced gonorrhœa—in fact, that a rape was committed. Now Mr. John Nicholls, surgeon of Wells, swore that Hodges had not gonorrhœa, but Mr. Hudson swore that Hodges' shirt was stained with a discharge.

It is remarkable that in a case of so much consequence, that the surgeon for the prosecution did not examine the prisoner, it seems that he was satisfied by looking at the shirt, and I believe that shirt was worn by the prisoner for weeks, if not months. From all I can learn, if Mr. Hudson swore that the shirt was in a filthy state, it would be nearer the truth. Had he examined the prisoner, he would not have dared to have sworn what he did at the trial. He would have at once said, if Maranata Freestone has gonorrhœa, it is impossible for Hodges to have infected her, for he could not give her what he has not himself.

It has been said that the prisoner had an inveterate gonorrhœa, and that he abused the girl for the purpose of getting rid of the disease.

It is a vulgar notion in some places, that if a man obtains a virgin, he gives it to her and gets rid of it himself. During the last twenty years, I have never heard of it in this town, therefore think such an idea is not known. Be that as it may, if the prisoner adopted that plan to get cured of the disease, he certainly succeeded, for although he was indicted for committing the act on the 24th July, he was free from disease on the 3rd day of August following—only ten days.

Is it at all reasonable to suppose, if the prisoner committed such a crime, for such purpose, that he would immediately begin to use injections and other remedies to get himself well? Certainly not; he would have waited some time to see if he had cured himself. Besides, he most undoubtedly would have used all other means before committing so great a crime. It seems very strange that he could have cured himself in such a short time, after having connection with the child. One thing is certain—that I found him free from disease on the Monday; and Mr. W. Nicholls, on the Wednesday

following, also said he was not infected, as will be seen by his certificate:—

From JOHN NICHOLLS, Esqr., Member of the Royal College of Surgeons, England, Senior Surgeon to the Wells Dispensary:—

Wells, 10th July, 1860.

I certify that on the 5th of August, 1857, I examined Joseph Hodges, at the Gaol, in Wells. He had no symptom of Gonorrhœa or Gleet. I also saw his shirt, and although it was stained, I am confident it was not by Gonorrhœa or Gleet. A discharge of mucous, semen, and urine, would have produced the appearance. Had Joseph Hodges infected Maranata Freestone on the 24th of July I should have discovered the disease in him on the 5th day of August following."

Now who can doubt for one moment, after reading Mr. Nicholls' certificate, and my statement, but that Joseph Hodges was free from disease, and incapable of infecting Maranata Freestone. To complete the case, I wrote to Henry Liddon, Esqr., Surgeon to the Taunton Gaol, and the following is his answer:—

Taunton Gaol, 22nd June, 1860.

I have referred to my case book at the Taunton gaol: I find on the 23rd August, 1857—"Joseph Hodges, (Diarrhœa)."—This is the only entry. He was removed from here to the Millbank Penitentiary on the 27th October, 1857.

HENRY LIDDON.

If Joseph Hodges was diseased, Mr. Liddon must have discovered it, for all prisoners are examined when they are admitted into the gaol after trial.

Only one entry against his name—that for a bowel complaint. This is strong evidence in his favour; especially so when he knew that he was sentenced to twenty years' penal servitude. Had he the disease, he no doubt would have asked Mr. Liddon to have given him something to cure it. It is ridiculous to think that he would not have applied for relief from August to October.

A question has been asked me over and over. It is this—Would the same treatment cure one disease as well as the other?—that is, would the medicine given by Mr. Hudson to Maranata Freestone cure her if it was not Gonorrhœa? My answer is, yes: but not so soon. In both cases all that is required is cleanliness and cooling medicine.

Now mark, Mr. Hudson, in the first instance, thought that the disease was from heat of the inside, and, as Mr. George Norman, of Bath, says, it was a pity he did not keep to his first statement.

Sir Astley Cooper states, page 542, as to treatment of Gonorrhœa in females—"You must direct the patient to take diluents. We possess *no medicine which has specific influence* over the discharge in females. You must depend on diluents, and appease any local inflammation by the use of such lotions as the liquor *plumbi subacetatis dilutus*. A sponge dipped in these should be introduced into the vagina and be allowed to remain there. It should, however, be often removed, and cleansed. It is necessary that the

patient should take aperient medicines."

Sir Astley Cooper says that he had met thirty such cases. He says—"I am anxious that this complaint should be known by every one present, and that the remarks which I have made should be circulated throughout the kingdom. I would add, it ought to be known, not only by every medical man, every lawyer, and every judge—but by every mother. Let mothers know that their daughters may be subject to this complaint and we shall hear no more about these disgraceful trials."

As this case is one of the greatest consequence, I shall make no excuse for copying extracts from different authors—before giving the answers of the different medical men. I have already given, at page 8, Sir Astley Cooper's statement.

In Percival's *Medical Ethics* a case is reported which took place in Manchester. The child died of the disease and a verdict of murder was returned by the coroner's inquest against a boy, from the suspicion that violence had been offered.

Not many weeks elapsed, however, before similar cases occurred, in which there was no reason to suspect that external violence had been offered; and some in which it was absolutely certain that no such injury could have taken place.

Mr. Ward, who saw his mistake, came forward and said so, and the prisoner was acquitted. Let Mr. Hudson now come forward and do likewise.

I would ask him one easy, simple question: Did he know, before I pointed it out to him, that such a disease was common to young females. If so, when he saw the child's linen why did he ask her if any one had been playing or taking liberties with her?—(*See the depositions.*)

In the *Medical Gazette* for February 28th, 1851, Mr. Kestiven, of London, has recorded a case of this description. He says—"With reference to the physical indications of chastity, the medical opinion upon which, may be divided into two classes—the public and private—the former, or the most frequent, are those in which vaginal discharges in the young are mistaken by the parents of, or friends, for the evidences of sexual intercourse by elder male persons, having gonorrhœa or syphilis. Such cases have frequently occurred to myself, as they have to others: and, although now better understood by the profession than formerly, yet so strong is often the notion entertained by the public with regard to these cases, that it is not unfrequently extremely difficult to persuade parents that we have merely to deal with the results of ordinary disease, and not with those of violence. This notion, in several cases that have come under my notice, has unfortunately been confirmed by hasty and erroneous opinions, given by surgeons on the mere representation of the friends, without a proper examination having been made. It is scarcely possible to speak too severely of such culpable and wilful ignorance. Within the last few weeks, a child of nine years of age was brought to me, upon whom it was suspected that violence had been

inflicted. A careful examination afforded evidence that the case was one simply of vaginitis. There was complete absence of any indication of violence; for, although it can scarcely be believed to be possible, that sexual entrance into the vagina of an infant could, under any circumstances, be perpetrated; yet in the *attempt* much contusion of the young and *delicate parts* must have ensued—had it been made. The parents were satisfied, and an individual unjustly suspected was forthwith released from so odious an imputation.”

I cordially agree with the statement of Mr. Kestiven.

Now in the case of Maranata Freestone, there was no appearance of any violence, no rupture of the Hymen, no dilatation of the vagina, no mark whatever to indicate that violence had been done.—See my statement, page 7.

Dr. Rynan, in his *Journal of Medical Jurisprudence* says:—“Every well-informed physician and surgeon is conversant with the purulent discharge of female children of scrofulous and delicate habits, from the period of dentition to the age of Puberty; such discharge is seen almost every day, in dispensary and hospital practice among the poor. It is described by John Hunter, Hamilton, Astley Cooper, Dewees, Jewel, and the author himself, and is often mistaken by ignorant practitioners for gonorrhœa.—Page 183.

Dr. Blundel, in his *Obstetric Medicine*, page 945, mentions a case in which, in a country town, in Wales, a child about eight years of age, was induced to prefer, against a respectable minister of religion, an accusation of an attempt to violate her person. It was averred, on the part of her friends, that she became the subject of ulcerations of the pudendum in consequence of the imputed assault, and the gentleman in question was committed to prison, and confined there for several weeks. The grand jury ignored the bill, on the ground that the prisoner had proved himself free from the disease which he had been accused of communicating, and also from other and conclusive moral and circumstantial evidence. The ulcerations on the child's pudendum, were proved not to have been derived from a venereal source.

Dr. Taylor says, in his work on *Medical Jurisprudence*:—“The existence of a purulent discharge from the vagina, has been erroneously adduced as a sign of rape in these young subjects. The parents, or other ignorant persons, who examine the child, often look upon this as a positive proof of impure intercourse, and perhaps lay a charge against an innocent person, who may have been observed to take particular notice of the child. Some cases are reported, by which it would appear that individuals have thus narrowly escaped conviction for a crime which really had not been perpetrated. It is frequently met with in girls up to six and seven years of age; and children thus affected, have been tutored to lay imputations against innocent persons. This state may commonly be distinguished from the effects of violence by the hymen being entire—the non-dilatation or laceration of the vagina; the red and inflamed condition of the mucous membrane; and the abundance of the purulent discharge, which is commonly much greater than that which

takes place as a result of violence. Capuron mentions two cases in which charges of rape on children were falsely made against innocent persons, on account of the existence of a purulent discharge, the nature of which had been mistaken. As a summary of these remarks, with respect to purulent discharges, we may observe, that they should never be admitted as furnishing corroborative evidence of rape, except:—1.—When the accused party is labouring under gonorrhœal discharge; 2.—When the date of its appearance in the child is from the third to the eighth day after the alleged intercourse; 3. When it has been satisfactorily established that the child had not previously to the assault any such discharge. It may be said, however, that all these conditions may exist, and yet the prisoner be innocent, for a child may, either through mistake or design, accuse an innocent person." (Page 700, 701, 702.—Sixth Edition.)

Dorvill states:—"Judging from my own experience, in a large town, cases of vaginitis, are by no means unfrequent, I have met with at least a dozen during the last five or six years; principally in children four or five years of age. They have been various in the severity of the symptoms, and in their duration; but have always terminated favourably."

Dr. Druitt describes the disease, in the *Surgeon's Vade Mecum*, page 175, Fourth Edition:—"Acute inflammation of the mucous membrane of the labia; nymphæ, and vagina, is not unfrequent in young girls, as a consequence of teething; or of costiveness, worms, and other disorders of the alimentary canal; and it has precisely the same symptoms as gonorrhœa. It, of course, often excites great uneasiness and painful suspicions in the minds of parents; but the surgeon may very easily remove their alarm by telling them that it is a common idiopathic disorder of children, and not a consequence of any improper treatment."

Now I must refer my readers to page 2 & 25 of Dr. Wilde's little work, called *Medico-Legal observations upon infantile Leucorrhœa*—a work that ought to be in the hands of every surgeon—and from which I have taken the liberty to copy the following remarks pertinent to this case:—"But such errors have arisen, and might, but for the pains taken to expose them, have led to the most serious consequence. I think it my duty to bring the matter under the notice of my readers, not merely as a warning to such members of the profession as might, from inexperience, be led into similar errors, in future; but as an exposure of the deficient system of medical police in the United Kingdom, and as a warning to lawyers and public prosecutors with respect to medical jurisprudence—a subject, by the way, on which, except when barristers "cram" for the defence of a prisoner, they are especially deficient. Even judges may occasionally require to have the well-established laws of medical jurisprudence very forcibly impressed upon them, before they will receive them in evidence, against the *assertion* of an ignorant witness!"

"The disease, although denominated by Churchill and other modern writers upon the diseases of children, *Leucorrhœa infantilis*, is better

designated by the term vaginitis, for it is of a much more inflammatory character than either leucorrhœa or gonorrhœa—at least as these two diseases present in the adult female—and the discharge is much more profuse in the former and much more purulent in the latter. This discharge proceeds principally from the vagina, although the external parts are generally bathed with it, when we come to examine them, in the same way; as the surface of the glands and the inside of the prepus are usually covered with discharge in persons labouring under gonorrhœa, particularly where the foreskin is abundant. The redness and swelling of the labia, clitoris, and orifice of the vagina, is generally very great, and the hue of the former is somewhat purplish. Not being acquainted with the appearance of gonorrhœa in children under ten years of age, I cannot say whether the inflammatory symptoms are equal in appearance to those now described. The disease is, I believe, usually harmless in the first instance; and it is only when excoriation has taken place from the irritation of the discharge, and that the urine passing over the abraded surface produces some degree of soreness, that any complaint is made. After some time, (the period varying according to the virulence of the disease, and the state of cleanliness, or the contrary, in which the child is kept,) the discharge excoriates the labia, both on their external and internal surfaces, the fourchette, perineum, the margin of the anus, and all that portion of the integument of the thighs washed by the discharge, or which come in contact when moved one upon the other. In fat children, the amount and extent of excoriation, which presents much the character of an eczematous eruption, is always greater than in those who are thin, or have been, in any way, wasted by ill health. The character of this eruption, its *defined margin* and extent, may possibly, to a practised and unprejudiced eye, serve to distinguish this disease from the results, either of violence or the mechanical irritation produced by the friction of the penis between the thighs and external labia, as was endeavoured to be proved by the Crown in the late trials, in Green street. With respect to the discharge, it is generally of a very acrid nature, and is the cause of this excoriation and eruption, upon the true skin, and unless the disease has been discovered by accident in an earlier stage, (such as by observation of the child's linen, or by the chance of some second party seeing the child,) the two circumstances which first attract attention are, the difficulty of walking, or the pain in making water, but the date of the discovery varies from a few days to several weeks, according to the violence of the affection, or the care and attention bestowed by mothers on their children. For the same reasons the duration of the disease will vary from a fortnight to six weeks or two months. The age at which this vaginitis is most frequent is, from four to ten, but it may appear earlier, of which an example was given in the *Association Medical Journal* for August 27th, extracted from Dintche Klinip, in which this disease appeared in a child only five months, and produced inflammation of lymphatics and violent constitutional symptoms.

“It is here proper to premise, that a delusion prevails, that a man can get rid of an obstinate Gonorrhœa, which has failed the doctors, by having connexion with a virgin; and as the easiest mode of effecting that object, a child of tender years is selected; and hence the felonious assaults occasionally attempted, and for which men have been most justly convicted, and most righteously punished. But in all such cases it has been proved, that the men *laboured under gonorrhœa or venereal*, although the popular impression among the lower orders is, that the disease is not only completely, but instantaneously transmitted from the male to the female. Well, aware of this wide-spread superstition, and also naturally suspicious of any disease in the genitals of a female child or young girl, the mother at once jumps to the conclusion that impure connexion has taken place, and possibly she may be confirmed in this idea by some medical man, not conversant with such affections, stating that it may be either gonorrhœa or the result of violence. But, even without the medical authority, the mother commences a course of questioning and threatening so precisely identical with that so graphically described by Cooper, that one would think she had been instructed out of his lectures; in fact, the evidence given upon the cases lately tried in Dublin was, in truth, but a paraphrase of the very words of our great surgeon. First commences the questioning as to the fact of connexion. This, poor child, she denies; and generally holds thereto for a greater or less period: varying according to her own knowledge of or appreciation of truth, or the amount of reward offered, or of punishment threatened. Now upon this subject, I may remark, that when a child, who has neither love nor passion to influence her, has had connexion with a man, it is not likely she will conceal it from her mother or near relatives when hard pressed; but in all cases where the crime has not been committed, considerable time elapses before the story is made out. In one of the cases tried in Dublin, the mother stated in her information, that she had to threaten her daughter severely for more than a day and night, before she would confess to the fact; and she also swore at the Commission, that she threatened her little girl to *cut her tongue out of her*; and, in another, the mother—a step-mother, by the way—commenced her inquiries by giving the unhappy child a sound flogging, and a threatening of more if she did not confess. Then comes the end of this extraordinary drama, also graphically described by Cooper (see page 8). The names of a number of persons are suggested, not, in the first instance, as having perpetrated the crime, but merely as having been kind to the child, paid it attention, or given it presents. The child acknowledges to some such act of kindness. In one instance, a bit of sugar, given some months before by the prisoner to the child, was the alleged reward, and also the reason why that particular person was selected; and in one of the instances, a penny to buy strawberries, was said to be the reward. The name having been at length selected—the threatenings are recommenced, and a series of questionings, as to whether such and such circumstances did not take place are instituted;

and thus, as Sir Astley Cooper said, with great truth :—"The child is driven to confess what never happened, in order to save herself from being chastised." All this time the unfortunate mother, firmly believing in the commission of a foul act, little suspects that in the promptings and suggestions to her frightened, innocent child, she is leading it from the path of truth, and demoralising its mind, by entering into details, which, as may easily be seen from the language afterwards adopted by the child at her examinations, are those of a grown person, well acquainted with such matters ; and of the mother, who, as the great authority so often quoted said, being perhaps not quite clear herself, is more ready to suspect others. If the child is taken to an hospital, or public institution, (as occurred in three of the nine cases which lately appeared in Dublin), the mother may be disabused of her unjust suspicions, and the nature of her child's disease explained to her ; and she may return to her home happy and contented ; while, at the same time, her child is prescribed for, and soon gets well. But if, on the other hand, she applies to the police, the accused person is immediately arrested, without summons or warrant, (as the crime is felony, punishable by transportation for life), and a system of examination and inquiry is pursued which may lead to a public trial, in which the accused man, unless ably defended, or assisted by medical evidence in his behalf, stands a good chance of being sent to Spike Island, or a penal colony."

Dr. West, on Lectures and Disease of Children, page 551, says :—"I wish to say a few words about those muco-purulent discharges from the vagina and vulva, in young girls, which were once erroneously supposed to be due to some impure cause ; an opinion which, though now justly abandoned by the profession, still retains its hold among the vulgar."

I beg to thank Mr. John Butler, for letting me have the brief for the prosecution. He did it in the kindest manner possible. It was very little more than a copy of the depositions, but that little, had the prisoner been defended, in all probability would have cleared him. Maranata Freestone swears, *In the afternoon of one day in the week before last* ; and her aunt, Caroline Feeestone, swears *one day while I was out* ; (see the depositions page 3 and 4), but when brought before the judge and jury he was indicted for committing the act on the 24th day of July, 1857. The hour is not mentioned in the child's deposition and how the prosecution found out even the day I am at a loss to know.

The last trial in Dublin (described by Dr. Wilde), was that of Patrick Kowe, a coachman, who was indicted for carnally knowing two little girls, Cosgrove, aged 9½ years, Delmere, aged 7. They both swore that the prisoner had abused them the same day, and at the same time—the usual time for the prisoner returning home. It was satisfactorily proved, that from half-past nine in the morning until half-past three in the afternoon of the day upon which the crime was said to be committed, (between twelve and one o'clock), the prisoner was engaged driving, and never returned to the

stable. Of course he was acquitted.

Had Maranata Freestone sworn to the day and hour, Joseph Hodges might have been able to produce witnesses to prove he was not near the house at the time.

From J. H. SAWYER, M.D., M.R.I.A., 137, Stephen's Green, Dublin, Licentiate of the Royal College of Surgeons, Ireland; Professor of Midwifery, Royal College of Surgeons, Ireland; and Master of the Coombe Lying-in-Hospital, Dublin:—"The coincidence of the accused man's shirt being stained, obviously confirmed Mr. Hudson in his opinion tht the child was suffering from Gonorrhœa. I infer, that, if he has any opportunity of practice, that many cases of inflamed pudendum, with purulent discharge, in young females, from birth up to puberty, must have come before him. Mr. H. should read the pamphlet published by Mr. Wilde on a very similar case. At the present time I am attending two girls, aged 10 and 12, with heat soreness, scalding in passing water, and yellow discharge, obviously caused by irritation of the mucous membranes. I have submitted the depositions to my friend, Dr. Churchill, Professor of Midwifery, of K. and Q.C.P.I., and refer you to the clear and lucid digest he has kindly given me, in all of which I fully concur.—Wishing you every success in your laudable efforts, &c.

From FLEETWOOD CHURCHILL, Esq., M.D., M.R.I.A., Stephen Green, Dublin, Fellow of the King and Queen's College of Physicians, Ireland; Professor and Examiner of Midwifery, King's and Queen's College of Physicians; Author of the "*Theory and Practice of Midwifery*," and on the "*Diseases of Women and Children*"; and Examiner on Midwifery and Diseases of Women and Children to Queen's University, Ireland:—"I have read over the papers very carefully, and, as you wish, I will make one or two observations thereupon; premising that, had one been present, one might have cleared some points, which would have justified a more decided opinion.

1.—The charge is one of rape, against Hodges, and also that he gave the child Gonorrhœa. The latter rests mainly on Mr. Hudson's opinion, and must be false, if Dr. Wybrants' statement be true, for a man cannot give that which he has not got.

2.—The testimony of the child is worth nothing, from the way in which it was obtained: first by threats, and next by leading questions—the latter by the aunt, whose character being bad, would have no delicacy in helping her child in describing the steps of the process. I repeat, that this evidence is valueless, whether the man be guilty or not.

3.—As to the medical evidence, it is only of negative value. I don't know how you could distinguish infantile gonorrhœa from infantile leucorrhœa of the same intensity, as I never saw a case of the former, and very few other men have seen it. I fancy we may, however, dismiss that question, as it is settled in the other way. Then we find inflammation, ulceration, and discharge—but no evidence of injury. These

we know are no proofs of carnal knowledge. She says, she was much hurt, and cried out, but no one heard her, and she made no complaint to her aunt.

4.—So that, of direct evidence, personal and medical, there is none that is worth a penny-weight for conviction, to any one familiar with the subject. But, on the other hand, a most important piece of collateral information is afforded by Dr. Wybrants, when he mentions that he had several similar cases, about the same time, as I understand him. The disease, then, must have been epidemic, and, surely, in the absence of reliable evidence and medical proof, the most just and reasonable conclusion would have been to attribute the child's condition to the prevailing epidemic. In conclusion, it may be impossible to say whether the man did make any attempt at all upon the child; but I have no hesitation in saying that the evidence I have seen is utterly insufficient to convince me, and, indeed, is utterly worthless."

From JOSEPH SWAYNE, Esqr., M.D., 12, York Place, Clifton; Member of the Royal College of Surgeons, England; Licentiate of the Apothecaries' Hall, London; Physician Accoucheur, Bristol General Hospital; Lecturer on Midwifery, Bristol Medical School; Consulting Accoucheur, Lying-in Institution, attached to the Medical School; and also to the Bristol Lying-in Institution; Author of "*Obstetric Aphorisms for Students*":—"I have carefully read the papers which you forwarded to me, and, on considering the medical facts which they contain, it appears to me that the only evidence against the prisoner is the testimony of the little girl, of the credibility of which others are better capable of judging than I am. There is no proof, whatever, of a rape having been committed, as the external genitals are apparently uninjured. There is also no proof that either the child or the prisoner are suffering from gonorrhœa. The disease which the child has been suffering from appears to have been inflammation of the vulva, giving rise to superficial ulceration and purulent discharge; a disease of common occurrence in children, and arising from a variety of ordinary causes, quite independent of sexual intercourse. I have repeatedly seen such cases myself, and they have been fully described by others. As I said before, the medical testimony amounts to nothing, as a proof of the prisoner's guilt, which appears to me to rest solely upon the confession which was extorted from the child."

From WILLIAM MITCHELL CLARKE, Esq., 1, Hanover Place, Clifton; Member of the Royal College of Surgeons, England; Licentiate of the Apothecaries Hall, London; Lecturer on Forensic Medicine and Demonstrator of Anatomy, Bristol Medical School; and Surgeon to the Bristol General Hospital:—

"I cannot find anything in the evidence to prove that a rape had been effected. So far as the evidence states, the child might only have been suffering from vaginitis or vulvitis. But Mr. Hudson may have had other

reasons than those stated for saying that the child had been abused by a man. The other points that strike me as being important in reading the accompanying are as follows :—Firstly, Vaginal penetration would not be considered necessary to the crime of rape. Secondly, Five similar cases occurring would seem to shew a sort of epidemic influence. Similar cases occurring in this way have had very important influence upon a trial of this kind. Thirdly, That the female has gonorrhœa is no proof of rape. It would be worth very little in evidence, unless the accused was found also to have it; and even then it may have been conveyed to the child by an accident, although it certainly becomes, when both accuser and accused have it, evidence of some weight.”

From WILLIAM GUY, Esq., M.B., King's College, London; Fellow of the Royal College of Physicians, London; Physician of King's College Hospital; Professor of Forensic Medicine, King's College; author of several Essays on subjects connected with Physiology, Forensic Medicine, and Hygiene; editor of “Hooper's Physicians' Vade Mecum”; author of “Principles of Forensic Medicine” :—

“I have carefully perused the documents you sent me, relative to the case of Joseph Hodges, and am of opinion that your statement is conclusive as to the absence of gonorrhœa in the accused, and the existence, in the case of Maranata Freestone, of a condition of the genital organs, which would be perfectly explained by the presence of the same disease under which the five children, about the same time, were suffering. If these five cases had happened in the practice of Mr. Hudson, he would doubtless have given his evidence with much more hesitation and reserve.”

From ROBERT DYCE, Esq., M.A., M.D., 198, Union Street, Aberdeen; Member of the Royal College of Surgeons, London; Senior Physician, Royal Infirmary, Aberdeen; Physician of Robert Gordon's Hospital; Lecturer on Midwifery and Diseases of Women and Children, Marischal College and University, Aberdeen :—

“I beg to acknowledge your note with its accompanying documents. I have read them carefully, and though not much in the way of meeting with such cases, I know that there are many such occurring here, and that they are never brought to trial, and are always squashed by the authorities. The evidence in your case appears to me very incomplete, and, I should think, that if fairly brought before the Home Secretary, he would order an inquiry and get the verdict set aside. I shall be glad to hear that you have been successful in your endeavours to defeat so nefarious a plot which I believe it to be.”

From JOSEPH WINNARD, Esq., Wigan; Member of the Royal College of Surgeons, England; Licentiate of the Apothecaries Hall, London; and Honorary Surgeon to the Wigan Dispensary :—

“Many thanks for your note and enclosure. I think Hodges was not proved to be guilty, and that Hudson is a hard swearer. Send your case to Wilde. I presume you have his pamphlet in reference to mine. Medico-Legal observations upon the case of Amos Greenwood, tried at the Liverpool

Assizes, December, 1857, for the wilful murder of Mary Johnson, and sentenced to penal servitude for life. By W. M. Wilde, F.R.C.S."

From JAMES WATSON, Esq., M.D., F.R.S., 13, Circus, Bath; Member of the Medical Clinical Society, Edinburgh; and Late of the Bengal Medical Establishment:—

"As a medical man, I can state that there is a disease peculiar to females of tender years, the symptoms of which so resemble those arising from impure connexion, that the one might be mistaken for the other, by an inexperienced person. Whether Mr. Hudson has made such a mistake or not I am not in a position to say. I observe that Mr. Hudson, on the child being first taken to him, did not suspect the discharge to be the result of impure connexion. He attributed it to the heat of the inside; and, further, that Mr. Hudson's evidence, in which he states the child to be suffering from gonorrhœa, was given on the third of August, that is, two days before the examination of the child's person, made by you in Mr. Hudson's presence, when you pointed out to him the ulcerations, which, in your opinion, caused the bloody nature of the discharge. If the copy of the proceedings which you have here sent is the whole case, as it went before the jury, and on which Joseph Hodges was found guilty, and sentenced to twenty years penal servitude, I am of opinion that he was found guilty on incomplete and unsatisfactory evidence.

From GEORGE NORMAN, Esq., 1, Circus, Bath; Fellow of the Royal College of Surgeons, England; Consulting Surgeon, United Hospital, Bath; Surgeon Puerperal Charity; Vice-president of the British Medical Association; Fellow of the Royal Medical Clinical Society; and Magistrate of the County of Somerset.

"The girl's evidence is very strong and circumstantial, and I do not think a girl of eight years old could have invented it, if she had not been instructed by some malicious person; and when the surgeon swore that he had no doubt the disease arose from her having been abused by a man, the jury, being sure to decide according to evidence, could not do otherwise than convict; but I am surprised that the judge, who must be aware of the uncertainty of medical opinion, in that subject, should sentence him to penal servitude for twenty years. If the prisoner had been defended it would have been otherwise, for, on cross-examination, the surgeon must have admitted that purulent discharge often arises in mucuous surfaces from common inflammation; that it is often the case with young females; and also that there is no CERTAIN mode of knowing the matter of *gonorrhœa from any other pus*. I have often seen inflammation and purulent discharge from young females, arising spontaneously; but were I to see five cases occurring in one family, I should suspect the existence of contagious matter, and that it had been conveyed from one to the other by the fingers; and I believe the disease to be sometimes produced by the fingers of an adult female having gonorrhœa. In severe leucorrhœa, the matter of which may produce inflammation and dis-

charge in children. If you would make application to the Secretary of State, sending your own and the man's letter to the Rev. H. Pratt, getting him and the magistrates to back the application, I think it very probable he would considerably lessen the period of servitude. The judge must have had a strong opinion on the case, or he would never have given him so severe a sentence, for the evidence does not go to a rape, though I think Mr. Hudson swore that he had no doubt there had been connection."

From WILLIAM BEDFORD KESTEVEN, Esq., Up Holloway, London; Fellow of the Royal College of Surgeons, England; Licentiate of the Apothecaries' Hall, London; Medical Officer of St. Mary's Infant Pauper Establishment, Islington; and author of a Pamphlet on Medical Ethics:—

"Having read the depositions and your remarks upon the case of "*The Queen v. Joseph Hodges*," I have no hesitation in expressing my conviction that a grave error has been committed. I have no doubt whatever that the charge of *Rape* was false, and that the child was suffering simply from the common disease vaginitis. Penetration, clearly, had not been effected; and however, that is not considered essential to the charge of rape. So far as I gather from the depositions, a fortnight elapsed between the alleged perpetration of the crime and the accusation of the prisoner by the child. This fact, coupled with the other fact—that the accusation was extorted after the usual fashion—afforded the very strongest *prima facie* evidence against the truth of the charge. This presumption is still further strengthened by the coincidence of other cases, as the disease is one that often assumes the epidemic character. Mr. Hudson's first opinion was doubtless the nearest to truth, and it is a thousand pities that he should have suffered his judgment to be warped by subsequent statements of the child's, made under pressure of a threat. Had the prisoner been defended by a well-educated barrister, the result would, I doubt not, have been a verdict of *Not Guilty*. I think that a representation of the case to the Home Secretary would obtain a remission of his punishment. I shall be happy to join you therein, either personally or by way of petition, as you may think best."

From ALFRED SWAIN TAYLOR, Esq., M.D., F.R.S., 15, St. James's Terrace, Regent's Park, London; Fellow of the Royal College of Physicians, London; Member of the Royal College of Surgeons, England; Licentiate of the Apothecaries Hall, London; Professor of Medical Jurisprudence and Chemistry, Guy's Hospital; author on Medical Jurisprudence, Poisons, &c:—

"I have received the copy of the report of the trial of Hodges, at Somerset Summer Assizes, 1857, and also your memorandum of the case, with the quotation from Sir Astley Cooper's Lectures. I was at the time, (1823-4) a pupil of Sir Astley Cooper, and heard him make the remark, which you have quoted. Taking the facts as they are here stated, there appears to be an entire absence of medical proof of the alleged crime. There is no physical injury to the genitals; no rupture, laceration or dilatation of the parts, and an entire absence of bleeding from wounds or ulceration. There is not a single

medical fact to shew that the accused ever did to the girl that which she says he did. The disease affecting the girl has all the characters of leucorrhœal inflammation, in girls of this age—or of vaginitis—inflammation of the parts and purulent discharge, with slight ulcerations of the mucuous membrane. There is nothing in this case, but the statement of the girl, upon which such a charge could be based. This statement, however, is invalidated by her answer, in the first instance, to the leading question of the aunt, that no one had touched her. It is also directly opposed to the prisoner's statement. There is, therefore, literally nothing to support the charge. Every symptom in the girl is reconcilable with the theory of natural disease, and there is nothing to show there has been carnal knowledge. If the man had no discharge about him at the time mentioned, this is conclusive of the falsehood of the accusation. Even had he been labouring under a discharge, it would not, in my opinion, have been sufficient, without evidence of physical injury to the female organs, to justify such an accusation, and certainly not to justify a conviction. There are numerous cases in every populous town, where men might be charged and convicted wrongfully of such a crime, without any power of proving themselves innocent. The girl might fairly be indicted for perjury, and then the prosecutor, the convicted person, could make his statement upon oath."

From WILLIAM LAWRENCE, Esq., F.R.C.S., 18, Whitehall, London; Fellow and Member of the Court of Examiners of the Royal College of Surgeons, England; Surgeon extraordinary to the Queen; Surgeon and Lecturer on Surgery, Bartholemews' Hospital; Professor of Anatomy and Surgery to the Royal College of Surgeons; and author of several medical works:—

"From the partial insight afforded by your papers, I conclude that Hodges is suffering punishment for a crime he never committed,—that of communicating disease to a child labouring under a severe form of leucorrhœa."

From Sir BENJAMIN BRODIE, Bart., D.C.L., F.R.S., 14, Saville Row, London; Sergeant Surgeon to the Queen; Surgeon to H. R. H. the Prince Consort; Fellow and Member of the Royal College of Surgeons; and President of the Medical Council:—

"My dear Sir,—I should be very glad to meet your wishes, but really I cannot do so. Not only have I no leisure to study the case that you have sent me, but I have learnt by experience how easy it is to get involved in a great deal of trouble by giving opinions in cases of this kind. Yours truly, B. C. Brodie."

From Doctor W. R. WILDE, M.R.I.A., Merrion Square, Dublin; Licentiate of the King and Queen's College of Physicians, Ireland; Fellow of the Royal College of Surgeons, Dublin; Surgeon to St. Mark's Hospital and author of "*Medico-Legal Observations upon Infantile Leucorrhœa*":—

"I have studied and written upon the subject of these infantile diseases,

which simulate the effects of violence to the genitals, or lead anxious friends or credulous or ignorant medical practitioners to mistake the symptoms of such for the results of criminal connection. My writings upon this subject are considered and quoted as authorities, both in the medical profession and by lawyers. I have examined into the case of *Freestone v. Hodges*, as submitted to me by Dr. Wybrants, of Shepton Mallet, and have carefully perused all the documents forwarded therewith, viz., the depositions of the prosecutrix, of Caroline Freestone, her aunt, and of Mr. T. St. J. Hudson, the Surgeon who examined the child; the statements by Dr. Wybrants, and also the certificates of Mr. Liddon and Mr. Nicholls, surgeons of the gaols in which the prisoner was confined. If the case rested on the short, plain, circumstantial statement of the child;—that no further evidence had been adduced; that no medical examination of either party had taken place; had failed to discover symptoms of either violence or disease, the question would narrow itself into a very small compass—depending upon the credibility of the child, or the possibility of the prisoner proving an alibi, or other equally valid defence. Failing such, a jury would have little difficulty in finding the man guilty, for the law relating to children, under ten years, merely requires an approximation or apposition of parts, without penetration, to constitute a felonious assault. As, however, other evidence, chiefly of a medical nature, was adduced, and, in all probability, weighed with the court and the jury, the case assumes a different complexion. With this evidence I would now deal; and, viewing it in a medico-legal character, I find no difficulty in coming to a conclusion on it. I may premise that, in every tittle of this case, the witnesses followed a well-known and often-described stereotyped routine of statement, as set forth in the writings of Cooper, Lawrence, Beatty, myself and others, years before this assault is said to have occurred. The child made no complaint at all, or at any time, either of violence, or subsequent uneasiness from disease. Such is invariably the course observed in such cases. Upwards of a week after the alleged assault, the aunt with whom she lived, accidentally remarked stains upon the child's linen. Her mind, perhaps, for the reasons suggested by Sir Astley Cooper, of not being very pure herself, must have conceived that the child had been meddled with, for she showed the shift to her neighbours, who said, 'They thought it was the bad disorder.' This woman's suspicions were unfortunately confirmed by the medical man who was consulted and who was evidently totally unacquainted with the disease styled 'Infantile Leucorrhœa,' and who, on the first occasion, did not examine the child, but, on seeing the stains on the chemise, asked if the child had been with any person. Acting on the ignorant thoughts of her neighbours, and the suggestions of her medical man, the woman then commenced the usual course of treatment with the child, consisting of suggestions, threats and promises. She even goes so far as to acknowledge that when the child energetically denied the accusation—possibly was ignorant of what was meant—she threatened her in these words:—'If you do not tell me you will surely die.'

This was the very expression used to Mary Johnson, in the case of Amos Greenwood, which I have already recorded. The conduct of the prisoner, when spoken to about the child, is quite in accordance with the usual tenor of such cases. Mr. Hudson acknowledges that, on seeing the stained linen, he at once asked the woman, if any one had been playing or taking liberties with the child; thus suggesting to her a cause for the discharge. As Caroline Freestone, the aunt, said that there had not; but that the child complained of her private parts being sore. Mr. Hudson, without examining her, thought and told the woman, that the discharge must have resulted from the heat of her inside.

"This is a disease I have not been able to discover in any classification of diseases which I have read. The aunt having, by threats and promises, subsequently got the child to agree to her suggestion, that some one had been meddling with her, informed Mr. Hudson thereof the next morning, who then examined the child and found her private parts inflamed. She had also a discharge of gonorrhœa. How Mr. Hudson knew that this discharge was from gonorrhœa and not from leucorrhœa or infantile vaginitis, is more than I or any of my medical brethren who have studied the subject, can tell. In Dr. Wybrants' statement, he says that when he examined Maranata Freestone, the prosecutrix, in company with Mr. Hudson, she was suffering from inflammation and purulent discharge of the vagina labia, and with slight ulceration; the discharge stained with blood, &c. Now in no instance have I known gonorrhœa accompanied with ulceration of the genitals, and bloody discharge, unless from the union of that disease with syphilis; whereas, in every case of infantile leucorrhœa which I have examined, there has been an ulcerous discharge, and, very frequently, a slight ulceration of the parts. Mr. Hudson concludes his information by giving it as his opinion that the child had been abused by a man, which had caused the disease. Therefore I take it, that he considered the child's symptoms to be the result of infection by contact, and not those arising from violence. In furtherance of his opinion, respecting the cause of the child's appearance, Mr. Hudson says he examined the prisoner's shirt, and found it stained with a discharge; but he does not state in what state the prisoner's genitals were, or whether he was labouring under gonorrhœa, or any other morbid discharge. Now on this subject three other medical men—Messrs. Wybrants, Liddon and Nicholls—who carefully examined the prisoner, assert that he had no gonorrhœa, therefore it could not have been the prisoner who infected her.

"A remarkable feature in the case is, that several other instances of purulent discharge from the genitals in young children too existed in the vicinity. There was, in fact, at the time, an epidemic of the disease common to weakly and dirty children, during hot weather, in the very locality where she lived.

"From a careful consideration of all the circumstances of this case, I have not the slightest doubt on my mind of its being one of infantile leucorrhœa, in which neither violence nor sexual connection was in any way attempted;

and I have not a shadow of doubt as to the prisoner's innocence. Should the magistrates and others who may peruse this paper be of the same opinion, it behoves them, as a solemn duty, to interfere on behalf of an innocent man, doomed, I regret to say it, by medical and legal ignorance, to 'Twenty Years' Penal Servitude.'

I have now concluded the evidence of the different medical men, and, surely, after reading it, and the following confession of the girl, no unprejudiced person can come to any other conclusion than that the prisoner is not guilty.

Warminster, Monday, 30th July, 1860.

"Maranata Freestone came to my house this morning; I asked her 'if she was the little girl about whom there was a report in connection with Joseph Hodges, of Shepton?' She replied, 'Yes.' I said 'You are aware of what a long and severe punishment he had in consequence?' She replied, 'Yes.' 'Was there any truth in that report?' 'Yes.' 'What was it; did the man hurt you in any way?' 'No.' I asked 'What led you to say he did?' No answer. I said, 'Was it because you were frightened?' She said, 'Yes.' I said, 'Did your aunt frighten you in any way?' She replied, 'Yes.' 'What did she say to frighten you?' 'She said I should be punished.' 'Was it right of you to say what was not the truth, through fear of being punished?' She answered, 'No.' To several other questions she made no answer, but began crying. But upon my saying 'There are several gentlemen who are desirous to bring Hodges back, because they think him innocent; would you like that he should be brought back?' She replied with emphasis, 'No.' I said, 'Would it not be right, if he was innocent. 'Yes,' was the answer. After many other questions unanswered, I again said 'Remember you have told me he did not touch you; and he did not, did he?' She replied, 'No.' "

I am indebted to COLONEL PHIPPS, of Charlton House, Shepton Mallet, —whom I beg heartily to thank for all his trouble—one of the magistrates who committed Joseph Hodges, for this confession of Maranata Freestone.

I said to Mr. Hudson, on Thursday, August 6th, 1857, when he kindly permitted me to examine her in his presence, that I felt certain, in a few years, when the child would be older and from under the influence of her aunt, that she would acknowledge what she swore in court, was a fabrication, and did it when under threats and promises. The confession of the girl was made in the presence of one of the lady visitors of the school where she attends. Colonel Phipps informed me that she undertook to question the girl with the greatest reluctance, and he had much difficulty to induce her to do so—no one present, either to frighten or dictate to her; no threats or promises held out. This confession of the girl bears out her first and continued statement of 1857, until compelled by the leading question of the surgeon, followed by the threats and promises of the aunt, to alter it (see depositions.)

If this pamphlet will have no other effect, I hope it will open the eyes of judges and magistrates to the necessity of compelling the surgeon for the prosecution, in every case, to examine the accused and accuser; for had he examined the prisoner, he would have hesitated before giving the evidence he did at the trial—no proof given that he was diseased. The only medical evidence against the prisoner was that of Mr. Hudson, who swore that the girl had gonorrhœa; and, from that one symptom, he believed that the girl had been abused. Up to the present all medical writers agree that it is impossible to distinguish between the discharge of leucorrhœa and gonorrhœa: no, not even with the powerful aid of the microscope, or the most minute chemical test. Dr. Druit, in his work on Surgery, page 172, says:—"Are there any certain means of distinguishing the discharges caused by gonorrhœa, from those arising from other causes? No microscopic or chemical test, at present known, enables us to distinguish those arising from idiopathic causes, in chaste women, from those arising from contagion." Professor Taylor, too, in his "Medical Jurisprudence," (sixth edition), page 702, states:—"There are no certain means, by the microscope or otherwise, of distinguishing common purulent discharges from those which are gonorrhœal."

I protest against this case forming a precedent, for if it does, no man in the United kingdom would be safe.

I hope the Secretary of State will re-consider the subject, but should he refuse a free pardon to the prisoner, I entreat of him to use his power, and order Maranata Freestone to be tried for perjury, and allow Hodges to be examined on oath, as was done in the case of the Rev. Mr. Hatch and Eugenie Plummer—so that justice may be done to the poor friendless man, as well as to the rich and powerful. Should he wish it, I shall be most happy to forward to him or Judge Coleridge all the original documents.

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## REMARKS AND LETTERS

SINCE THE PUBLICATION OF THE PAMPHLET.

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LEADING ARTICLE IN THE "MEDICAL TIMES AND GAZETTE," MARCH 23RD.

We have more than once of late felt it our duty to notice the importance of the most rigorous care in ascertaining the facts in every Medico-legal inquiry, and in well weighing the inferences. Care should be taken, for example, not merely that the inference drawn is a possible one, that it is the most probable of all those that can be drawn, but that there is nothing in the facts that renders it improbable. Suppose a girl of eight to be brought to a Surgeon suffering from inflammation of the pudenda with discharge. A suspicion that she has been abused may cross the surgeon's mind; but he has no right to hint at such a thing before he has considered all the facts, and before he has deliberately judged whether it be more likely that the child is suffering from a common mucous inflammation than from the effects of an indecent assault. Yet, if we may credit the statements made in a pamphlet entitled "The Trial of Joseph Hodges, by Jonathan Wybrants, M.D.," it would appear that a poor man has been sentenced to twenty years' penal servitude on a charge for having carnally abused a girl, aged eight, solely on such Medical evidence as this. On the 31st July it was noticed that her shift was stained. The neighbours "said they thought it was the bad disorder." The same day she was taken to a Surgeon, who (if the pamphlet may be relied on) asked the child if any one had been taking liberties with her. She said "No." He did not examine her person. When the child was taken home, she was questioned and cross-questioned by her aunt, who told her some one must have taken liberties with her; and "if you don't tell me, you will surely die." Then the child accused Joseph Hodges of having abused her. She was taken back to the Surgeon on the following day, who then pronounced her to be labouring under gonorrhœa, and that she had been abused by a man. Evidence was brought that Hodges was not suffering under gonorrhœa, and the girl was not suffering from any effects of physical violence; yet, strange to say, on this evidence, supposing Dr. Wybrants' pamphlet be reliable, the man was sentenced to twenty years' penal servitude. The child made no complaint for a week after the alleged offence. There were no evidences of violence. The Surgeon's question to the child might have suggested to her the accusation. We say again, that there may have been evidence which does not appear in Dr. Wybrants' pamphlet; but that if mucous purulent discharge is to be considered proof of carnal abuse, no man who is ever alone with a girl can be considered free from peril of twenty years' penal servitude.

## LEADING ARTICLE FROM THE "BRITISH MEDICAL JOURNAL," APRIL 6TH.

DR. JONATHAN WYBRANTS of Shepton Mallet, from motives of pure humanity, has put himself to a great trouble in order to save from further punishment a man who has, in his opinion, been unjustly convicted of abusing a girl under ten years of age. Judging from the facts detailed in Dr. Wybrants' pamphlet, we cannot doubt that the man would not have been convicted had he been able to employ a counsel for his defence. This is just one of those cases in which the indignation excited at the nature of the accusation is apt to grievously prejudice the person accused; and we are satisfied that Dr. Wybrants has, at all events, made out a case strong enough to justify the Government in relieving the prisoner from further punishment. The pamphlet is, independently of the case especially dealt with in it, of interest, as it gives the opinion of a great number of the leading members of our profession as to the character and nature of the disease in young girls—discharge from the vagina and superficial ulceration of the labia—the cause of which has been often unjustly fastened on some unfortunate individual. The mother sees the discharge, accuses the child, threatens to punish her if she does not say who has been "taking her on his knee," etc., and often actually suggests the name of the man in whose company the child may have been; and thus the child is made to accuse a man of a crime of which he is perfectly innocent. It is grievous that there should be any members of our profession who are unaware of the nature of the complaint here referred to, and of the extreme caution requisite in dealing with it when made the subject of judicial inquiry.

## LETTER FROM MR. HUDSON.

*To the Editor of the Medical Times and Gazette.*

SIR,—In the observations you made relative to a pamphlet published by J. Wybrants, M. D., of this town, you very judiciously remark, "If the pamphlet may be relied upon." It was not my intention to have taken any notice of the book, had I not accidentally seen some remarks made by you upon the case. I consider it, to use a mild expression, very bad taste in any Medical man to issue such a pamphlet on so disgusting a subject to the public. Had the circulation been confined to Medical men only, the harm would have been little. The facts of the case are these. The child Freestone was brought to my surgery one morning by the aunt, who stated, "the child had a running from her privates." I inquired how long she had it. She replied she could not tell. Thinking it was one of those cases of which I witness similar ones amongst the pauper patients almost weekly, I gave her some chlorate of potash to take three times a-day, and directed bathing the parts with cold water. On the following morning she was again brought by the aunt, who appeared to be in great distress of mind. She then told me

the child (8 years of age) had told her Hodges had taken her up in his lap while the aunt had gone for some shopping, and opened his trowsers and put her across his legs, opened her legs, and hurt her very much with something. She said he kept her there only a little bit, and then gave her a penny not to tell any one. Such was the artless tale of the child told to me, not in the presence of any person, and without any threats or inducement on my part.

Knowing from the distance the seat of a velvet loom is apart from the loom itself, it was impossible he could do as the child represented, I asked the child in what part of the room he was. She said he sat on a chair. After the discovery, before I was informed of the affair the second time, the aunt said Hodges had been taking some strong-smelling medicine with peppermint, and he would not let her see his shirt, which he kept locked up in a box. I examined the child on the second visit, and found a bloody discharge from the vagina, together with a darkened appearance of the labia.

I sent for the sergeant of police and directed him to take up Hodges, and to procure his shirt. The latter was produced before me and the magistrates. It was stained in patches, with a thickened appearance and feel, certainly not from urine; and I believe it is very unusual in a healthy subject to find a shirt the front tail of it being covered with semen. I feel confident the child's tale was perfectly true. Dr. Wybrants keeps from the knowledge of those gentlemen who so incautiously give their opinion, that Hodges voluntarily confessed to the policeman that he had a gleet then on him. He also withholds a most important truth, that Hodges had been convicted three times from September, 1848, to 1850, of larceny, for which he had various terms of imprisonment: and in 1851 he was transported for burglary for seven years, and had only returned home a short time previous, being on "ticket of leave." He likewise keeps to himself the fact that Mr. Nicholls, the Surgeon of the Wells Gaol, was examined by the Judge on behalf of Hodges. He there stated he could not say if he had or had not gonorrhœa, for he could easily remove the discharge before he could see him either by means of his shirt or his hand. Mr. Nicholls acknowledged that the shirt, a clean one, was stained by "urine, perhaps by semen," (as I said before, a most unlikely thing in a healthy subject.) Mr. Lyddon, Surgeon of Taunton, does not express any opinion; he merely states he had diarrhœa. There was no opportunity of Hodges having connexion with women while in gaol, therefore there could be no discharge of semen, unless it was involuntary or produced by masturbation.

I have been twenty-five years in the Profession; nineteen of that time I have been the Medical Officer of a large district of this Union (population 9000.) Scarcely a week passes that I do not meet with cases of leucorrhœa in children, produced from constitutional causes, so that I am not quite a novice in the diagnosis and treatment of the disease. I did not accuse the man of rape, but of giving the child gonorrhœa, for I was perfectly aware

that it would have been impossible, for the size and age of the child, to have entered the vagina, and I am satisfied that gonorrhœa could be given by mere contact with the mucous membrane.

I was informed only yesterday, by a clergyman who has been living in this locality for nearly fifty years, that it is quite a common opinion among the lower class, that if a person has the venereal disease it can be got rid of by having connexion with a young child.

I am quite satisfied that the accusation is just, and the sentence well deserved.

I am, &c.

Shepton Mallet, April 5.

J. HUDSON.

#### Dr. WYBRANTS'S REPLY.

*To the Editor of the Medical Times and Gazette.*

Shepton Mallet, May 9th, 1861.

Sir,—Mr. Hudson, in his letter of the 13th ultimo, considers it very bad taste for me to issue a pamphlet on so disgusting a subject. No doubt it is disgusting, but not so bad as, by ignorance of the disease, to get an innocent man twenty years penal servitude. I am not ashamed to be an humble follower of the great Sir Astley Cooper, who so powerfully called the attention of the profession to the subject.

He complains that I omitted several circumstances. My fault then, if any, is one of omission—not commission. Had I stated anything that was not perfectly true he would have mentioned it. I, therefore, come to the conclusion that he admits every word that I have written, and I am glad he has filled up my sin of omission and given to the profession the whole of the case. I shall be delighted for you, Mr. Editor, to state now that you have the whole evidence before you, whether you think Joseph Hodges was proved guilty or not.

Mr. Hudson is not accused of threatening the child. No: he swears that when the linen of a child, only eight years of age, was shown to him he asked her if anyone had been playing or taking liberties with her. Caroline Freestone swears the same thing. The virtuous aunt being confirmed in her opinion by the virtuous parish doctor—takes the poor child home, and, with promises and threats, compels her to confess what never took place. The child is again brought to the doctor, and because she has a bloody discharge, without any marks of violence, he sends for a policeman, has the prisoner arrested, examines his shirt, finds it stained with a discharge—and then this surgeon of twenty-five years standing, and nineteen a parish doctor, swears that the child had gonorrhœa—that it was given her by Hodges—and in three days afterwards, by his evidence, he was sentenced to twenty years penal servitude.

Why could not Mr. Hudson state why he came to the conclusion that the bloody discharge was gonorrhœa? and how would he distinguish the discharge

of leucorrhœa from gonorrhœa?

It would be better for him to do this than say so much what Maranatta Freestone told him and what her aunt said—or that Hodges could not have a woman in Gaol—or the information given him by a clergyman of fifty years standing. He knows well that the prisoner was found guilty because he swore that Hodges communicated gonorrhœa to the child. Let him prove how he knew that it was gonorrhœa; and also how he could tell, by looking at the front tail of a man's shirt, that he had gonorrhœa?

As to the confession of the prisoner that he had gleet; at page 7 I have said that Hodges had not the power of retaining his urine. This he called gleet. With regard to Mr. Nicholls, his letter, which appeared in the last number of the *Medical Times and Gazette*,\* contradicts what Mr. Hudson said of him.

Mr. Hudson tries to excuse himself because the prisoner was convicted of burglary. What on earth has this to do with the present charge? It puts me in mind of the Irish jury. A man was indicted for murdering another, but at the trial, the one supposed to be murdered came forward and swore that he was the man. The jury asked to retire to consider their verdict, and in a short time returned into court with a verdict of Guilty against the prisoner. "Guilty of what?" exclaimed the judge. Foreman—"Guilty of murder." Judge—"But do you not see the murdered man in the witness box?" Foreman—"Oh! my Lord, if he did not murder that man he stole my grey mare seven years ago."

According to the arguments of Mr. Hudson, if Hodges was not guilty of carnally abusing Maranata Freestone he was guilty of burglary in the work-house.

The only evidence to prove that he was diseased, was that the tail of his shirt was stained with a discharge, and Mr. Hudson admits that it might be caused by semen; but he thinks it very unlikely, unless it was involuntary or by masturbation. Here he points out two causes. Mr. Nicholls and myself can prove beyond all doubt that the prisoner had neither gonorrhœa or gleet, and Mr. Lyddon could not find it out though he was under his care from August to October, and examined him when he first entered the gaol at Taunton.

I am, Sir, Your obedient Servant,

JONATHAN WYBRANTS, M.D.

- The following is the letter from Mr. Nicholls:—

"North Liberty, Wells, April 25.

"My Dear Sir,—I have read Mr. Hudson's letter to the Editor of the *Medical Times and Gazette*, dated April 5, with surprise. In answer to the question put to me by the Court, I stated that at the time I examined the prisoner Hodges in the Wells Gaol, *he had not gonorrhœa.*

"Yours very truly,

J. NICHOLLS.

"Dr. Wybrants, Shepton Mallet."

Shepton Mallet,

May 20th, 1861.

My Lord,

I have the honor of forwarding a pamphlet on the trial of Joseph Hodges, with remarks on it by the Editors of the *British Medical Journal*, the *Medical Times and Gazette*, also Mr. Hudson's answer and my reply.

I wish to call your special attention to the depositions and Mr. Hudson's letter.

You will see *he gives no reason* whatever for coming to the conclusion that the discharge Maranata Freestone was suffering from was gonorrhœa, although he swore that she had that disease, and "must have been abused by a man," up to the present time, unfortunately, medical men have no means of distinguishing gonorrhœa from any other purulent discharge, no not even by the most minute chemical test or by the powerful aid of the microscope.

Had Hodges been defended by a counsel that was aware of this fact he must have been acquitted.

You will also observe his curious and doubtful remarks about the front tail of the prisoner's shirt.

When I examined Maranata Freestone, in the presence of the surgeon for the prosecution, I saw it was a similar case to the others that I had under my care, *she had no marks of violence*, when I showed him Sir Astley Cooper's lecture on the subject, he was astonished, acknowledged he never heard of it before, and said it looked very like it, now he states that he sees cases weekly.

It is a remarkable fact that I have not seen a single case since the conviction of Hodges, proving beyond all doubt, that there was an epidemic amongst the children at that time.

I have now done my duty, a painful one, in bringing the case before the profession and your Lordship, and trust you will reconsider it, and if you are convinced that the prisoner is innocent, that you will advise the Crown to pardon him, no matter what his former crimes may have been. Should you have any doubt I beg of you to recommend that the girl be indicted for perjury.

I am, my Lord,

Your obedient humble servant,

JONATHAN WYBRANTS. M.D.

To the Right Honourable  
Judge Coleridge,  
Heath Court, Ottery St. Mary,  
Devonshire.