Lithotomy, its successes and its dangers : being a verbatim report, from shorthand notes, of an inquest held before the City Coroner / with a preface and commentary by a practical surgeon.


ROYAL·COLLEGE·OF·SURGEONS·OF·ENGLAND

A

B

A. Fac simile of a stone removed from the Bladder 12 months ago by Mr Beaney and considered at the time to be a very large one — Weight 1½oz. 80grs.

B. Fac simile of the stone removed by Mr Beaney from Robert Berth — Weight 6½ oz.

E. De Gruchy & Co

Lithe Melb

LITHOTOMY:

ITS SUCCESSES AND ITS DANGERS.

BEING

A VERBATIM REPORT,

FROM SHORTHAND NOTES,

OF AN INQUEST HELD BEFORE THE CITY CORONER.

WITH A

PREFACE AND COMMENTARY

By a Practical Surgeon.

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PREFACE AND COMMENTARY.

It will be generally admitted that a critical and exhaustive review of the case of Robert Berth, who died in the Melbourne Hospital after an operation for lithotomy, performed upon him by Mr. Beaney, would be equally useful to the public and medical profession, especially as it discloses a novel point hitherto unforeseen, yet one materially affecting both parties. It is a well-known fact that the older hospital establishments in London have been gradually converted, through a series of years, into close corporations, as far as the medical staff is concerned, and the retiring medical officers have been gradually replaced by younger men, either relatives or pupils, who have received their professional education in the hospital itself; so that in the event of any outside surgeon being chosen to fill the office, he was sure to be treated as an intruder—at all events, for some considerable time. Now, the Melbourne Hospital has gradually approximated under similar conditions to the same state as the London hospitals, and the medical officers, though only appointed originally for ten years, led themselves to believe they had a life interest in their appointments, and that they ought to be re-elected as a matter of course; also, that no outside surgeon or physician, unless a protegé of their own, should have the bad taste to oppose them on the expiry of their term of office. These illusions being rudely dispelled by the force of circumstances, they found themselves face to face with the fact that there was an intruder within their mystic circle, and one who must be exorcised forthwith. *Hinc illæ lachrymæ.* Now, the particular point alluded to is, whether it is for the interest of the public or the profession that a medical officer, who gratuitously gives his services to a public institution, should upon very inadequate grounds be subjected to the mental irritation and unavoidable expense, consequent upon having to

appear and defend himself before a coroner's jury for the imaginary crime of being unsuccessful in saving the life of a patient upon whom he had operated. Now, there are many medical men of considerable talent who are naturally nervous and excitable, and who, however much they wished to devote a considerable portion of their time and skill to the public use, yet would certainly decline to do so as soon as they could realise to themselves the possibility of being arraigned before a *quasi* criminal tribunal to answer for the result of an unsuccessful operation. How it must steady the nerve and knife of a surgical operator to have an imaginary halter dangling before his eyes, and what would be the amount of confidence he would place in himself when called upon suddenly to choose upon which horn of the dilemma he would impale himself when placed in a difficult and unforeseen position. The result to the public in such a state of affairs would be as satisfactory as the old practice of shooting unsuccessful admirals and generals. The public, and more especially the poorer classes of the community, who avail themselves of the benefits of a public hospital, would be the greatest losers; and instead of these establishments being officered by the *élite* of the profession, their places would be gradually filled by men whose courage would be greater than their discretion, and whose professional attainments would be found in the inverse ratio of their assurance.

In this particular case, the Law Officers of the Crown appear to have adopted the action of the old Venetian Council of Ten, only instead of receiving the denunciation out of the mouth of the lion of St. Mark, it was through the columns of the daily *Argus*, and upon such a slender foundation have instituted an inquiry materially affecting the professional reputation of a leading hospital surgeon. Why should the Crown have moved in the matter upon the whole unsupported statement of a probably obscure individual, who had not even "*le courage de son opinion*," and carefully avoided signing his name, or subsequently acknowledging the authorship. Englishmen generally fight face to face, and do not expect to be stabbed in the back by an unknown enemy. Such a proceeding is equally as Venetian as the action of the Crown, aud one might exclaim, "Bravo!" though not endorsing the justness of the deed. Unless the letter in the *Argus*, signed "A Practical Surgeon," accusing Mr. Beaney of malpractice, was actually written by a leading surgeon who possessed the confidence of the Government and the

public, the Crown ought not to have taken any official notice of it; as it might be inferred by ill-natured people that it was written either for a purpose or to order.

In the eyes of the law, medical men are not allowed any special immunity, apart from unqualified practitioners or private individuals, in the treatment of accidents or disease, and are bound to possess and exercise a large amount of skill and attention in the treatment of disease, and in default of these are equally liable to be judged by a proper tribunal for any laches they may commit; but as medicine and surgery do not come within the domain of exact sciences, a large margin is always left for the exercise of individual judgment in treating dangerous and abnormal cases. How is it possible to estimate correctly the precise value of all the different and ever varying factors of each particular lesion or disease, and arrive at a correct conclusion? under the most favourable circumstances the solution of the problem can only be an approximation to the truth. It matters little how dogmatically any expert may give evidence in disputed cases, it is simply an individual opinion, and must be taken *quantum valeat.* The judgment can only be arrived at by the balance of the weight of the whole of the testimony adduced, taken in connection with the other facts disclosed in the case.

It is a very curious circumstance that no case involving negligence or want of skill on the part of medical officers connected with our public hospitals, and rarely even against private practitioners, has been brought before the public authorities until certain changes in the staff of the Melbourne Hospital were made, and outside medical men inducted into their family circle; probably had the same case been operated upon, with the same result, by one of the original happy family of this establishment, nothing would have been heard of it, and all the dirty linen enveloping the subject would have been duly washed, dried, and ironed at home without the cognizance of the outside world.

Owing to the advance of scientific knowledge and the gradual subdivision of professional labour, no surgeon, however great his experience may be in private practice, can be expected to perform the practical and mechanical duties of an operating hospital surgeon during the first month or two of his appointment; you might as well expect a civilian surgeon to perform even minor operations in the field under fire, or on board a man of war in a heavy gale of wind. The world

must not be surprised that Doctors, as a rule, are such pugnacious individuals, they are made essentially so by their professional training; every medical man who attains eminence in his profession must have strong decided views on all subjects connected with his profession, and must at all times be prepared to maintain them; in fact, substitute *Doctores* for *Homines*, and you have the old proverb *Tot homines tot sententiæ* fully exemplified.

Perhaps there is something in the air of the Melbourne Hospital which unduly influences the organ of combativeness in our young medical practitioners, who ought, at the age they are appointed, to know how to restrain all unnecessary action of their biceps muscle. This pugnacity renders it the more necessary in all large establishments like the Melbourne Hospital that there should be a resident head of the in-door medical staff, responsible for the due performance of their respective duties, to see that they are always at their posts when not on leave, and to take care that all their minor details of properly preparing the patients for impending operations, without the honorary surgeons being obliged to attend to every minute detail of routine practice. The evidence given at the inquest, as disclosed at the *post mortem*, that no injection to empty the bowels before the operation was given, is very discreditable to the party responsible, first, because he ought to have known the absolute necessity for its performance, and also that he was strictly enjoined by Mr. Beaney to see it done.

The action of the Law Officers of the Crown is not to be commended, in employing members of the detective police in interviewing and extracting information from the different medical men who were connected with the case, not even excepting some personal enemies, and savours more of sharp practice of a firm of Old Bailey lawyers. Here was no criminal case. Everything that was done was in open court, and in sight of an assemblage of professional spectators, and the result of the operation, looking at it from its worst side, would only amount to an error of judgment, if admitted. The whole case, reduced to its simplest form, and divested of all extraneous matter, is, was the death of Robert Berth the result of an error of judgment during the operation, or were the initial dangers and difficulties arising from the abnormal size of the stone so great that death was inevitable?

It would have been more dignified, and consonant with justice, for the law officers to have explained to the parties who were urging on a

judicial inquiry, that it was apparently a professional squabble between two cliques of medical men; that as possibly there might be some foundation for the charge of alleged malpractice against Mr. Beaney, they would authorise an inquiry by the proper authority. They might have insisted that counsel should be employed on both sides, as in a friendly suit at law, so that the truth might be arrived at in a fair and legal manner. This mode of action would have relieved the Coroner from the invidious position he felt himself placed in, as being at the same time both judge and public prosecutor. It is very unusual for a Coroner to summon a special jury to decide how and in what manner a person came by his death, but when the evidence to be given requires a certain amount of education to comprehend, it is in the interest of all parties that a jury with more than the average amount of intellect should be empanelled, though it has, at the same time, a serious disadvantage, inasmuch as the party really standing his trial has no legal right to challenge any one of the jury who he may have reason for believing to be unfavourable to him.

It is necessary, in order to properly understand this case, that the letter published in the *Argus*, signed "A Practical Surgeon," should be read, as this document was ostensibly the basis of all future proceedings. The letter is cleverly written, but betrays a most unmistakable animus against Mr. Beaney, and clearly shows, by internal evidence, that it was written for an ulterior purpose, and was not the individual opinion of a practical surgeon writing for the information of the public, as it purports to be. It reads thus:—

"The second or lithotomy case was put upon the table. The patient was a young and healthy man. Mr. Beaney stated to the students that as the stone was small he would perform the median operation; however, he attempted the rectal or Lloyd's method. After some considerable cutting he got into the bladder, but only to find that the stone was an unusually large one.

"Having failed, after strenuous efforts, to remove it, a bystander requested him to crush the stone. This advice, however, he would not take, as he stated he was most anxious to extract it whole. There were two other operations still open to him to save the patient's life, viz., the bilateral, or the supra-pubic. He did not avail himself of either, but continued pulling and pulling and bending the hospital instruments, endeavouring to extract the large stone through the small opening. By sheer force the much-prized lump was hauled out. The result of course is easy to imagine—the man died of peritonitis.

"Now, Sir, had Mr. Beaney taken the advice tendered to him, and crushed the stone, it is almost a certainty that the man would now be alive. A cast of the stone is on view at a bookseller's in Collins-street east as an advertisement for Mr. Beaney's

great operative skill, but the poor man from whom this great specimen was extracted is in his grave. I wonder what reason Mr. Beaney will give the committee for not calling a consultation on these two cases. Perhaps they are exclusively his own operations, and that he feared his colleagues not understanding them might veto his chance of displaying such an amount of surgical skill.—I am, &c.,

"Dec. 18. A PRACTICAL SURGEON."

In summing up for the jury, the first allusion made by the Coroner was in reference to the rule of the Hospital, that "no important operation should be performed, except in cases of emergency, without a consultation with the other honorary surgeons." Undoubtedly this is an excellent rule which ought to be strictly observed; but, in previous cases when requested to attend consultations and operations, the honorary officers were generally conspicuous by their absence. In this case the man had been sent down from the Amherst Hospital for the express purpose of being operated upon for stone by Dr. Webb, who saw the man in Melbourne before his admission into the Hospital, and who was thoroughly acquainted with all the facts of the case. It is very well for the Coroner to say that the size of the stone might have been ascertained by the lithotrite; but the man had been suffering for four years and a-half with stone, and the bladder was in such an irritable state, that even the introduction of the sound caused violent pain and irritation, as stated by Dr. Annand. The Coroner goes on to say that a surgeon must not be accused of manslaughter, and put upon his trial simply because he is unsuccessful in an operation and the patient dies. This is the very point at issue; and if the Coroner had been solely influenced by his own theory, Mr. Beaney would never have been placed in the position of appearing before a jury to defend himself against such a charge—one made by an anonymous writer, and bolstered up by the imperfect evidence raked together by a detective officer. Dr. Youl starts quite a new theory in medical ethics, that hospital surgeons are a superior order of beings to common medical men, and any want of skill or error of judgment which would be a venial offence in the one would be a criminal act in the other; this would be a heavy tax to pay for eminence in the profession. People have always considered the reverse of this proposition to be true, and what was orthodox in the general was rank heresy in the soldier; at all events Shakespeare thought so. Probably, if the Coroner had had the training of a legal judge instead of that of a medical one, he would

have omitted the following piece of sarcasm—"He is honorary surgeon, he is senior honorary surgeon as he sets himself up, to the Hospital"—as being unnecessary and uncalled for, savouring more of the spirit of a partisan than the impartiality of a judge. Further on, Dr. Youl says—"If the operation had been performed in the presence of even two of the principal surgeons of this city, he would have taken it for granted that everything was done properly, and he would not have held an inquiry." Surely Dr. Webb ought to count for something, and certainly the operation was performed before many well-known medical men in the operating theatre of the Hospital. In his opening statement the Coroner distinctly states that the inquest was held at the instigation of the Minister of Justice, whose attention had been called to the case by a letter in the *Argus*. Surely the Minister or the Coroner must have been in a great hurry to have justice meted out to the offending party, for though the poor man had been fifteen days buried, and a day or two more would not have materially affected him, the *post mortem* was held on Christmas Day, a day above all others, when almost all the leading medical men were out of town; and it was difficult for Mr. Beaney to get even one or two to attend with him. The Coroner admits, and in fact is supported by all the evidence, that the operation was properly and fairly performed, but the difficulty arose from the abnormal size of the stone. Mr. Beaney tried to extract it with the forceps and failed, but a portion of the stone came away. Then what was to be done? Dr. Webb and Dr. Moloney suggested crushing; but there was not an instrument in Melbourne fit to crush such a stone, the lithotrites belonging to the Hospital not being sufficiently powerful for this purpose; it was finally drawn out by two scoops, one held by Mr. Beaney, and the other by Dr. Webb. The Coroner states that he saw a case recorded of an American surgeon who met with the same difficulty, who removed the stone by the suprapubic operation, and the patient lived. As the Coroner gave neither name, date, nor any references, it may be doubted whether the patient ever existed, except in the imagination of the writer. Such tall cases are not unfrequently met with in American sensational medical literature. In speaking of the suprapubic operation, the coroner compares it to that for the removal of an ovarian tumour, though the two operations differ very widely; in the suprapubic, after the difficulty of opening the abdomen has been overcome, the bladder has also to be cut through to extract the stone; this leads to the probable

infiltration of urine into the peritoneal cavity, and the usual sequence of this is peritonitis and death. The ovarian operation is formidable enough, but it is free from this difficulty, as the bladder is no way interfered with. The Coroner will not find it easy to get the leading professional men at home to endorse his views, as to the ease with which the suprapubic operation could be performed, or the probabilities of a successful result. He ought not to have allowed the jury to infer from what he stated in his summing up, that Mr. Beaney was criminally wrong in not performing the suprapubic operation. The next point he takes up is the amount of force used in extracting the stone. It is very hard to define what would be an undue amount of force used in performing different operations. Take for instance an expert in midwifery using the forceps in extracting the head of a child from the uterus; a large amount of force is actually necessary, and it is constantly employed without injury to the mother or child; and a medical man assisting at the operation, and not in the habit of seeing it done, might conscientiously believe, and even swear, that there was an undue amount of force used, which he himself would not have felt justified in employing. The inference as affecting himself would be right, his conclusion generally would be wrong. It is quite a farce to ask a jury to decide what Mr. Beaney ought to have done when the difficulty of extracting the stone arose, inasmuch as a jury of experts might never have arrived at an unanimous conclusion. One thing is certain, that had the patient been put in his bed without the stone being extracted, he would have assuredly died from exhaustion induced by the irritation of the stone and the wound. To an impartial observer it was necessary to extract the stone *coute qui coute*, and Mr. Beaney and Dr. Webb ought to be awarded some credit for so doing, although it was not effected by the proper scientific instrument. After reciting all the difficulties he met with in finding properly qualified men for making the *post mortem* examination, the Coroner goes on to say, that finally he requested Drs. Barker and Neild to perform this duty; but he did not even hint to the jury (and a fact of which he was quite aware) that both these parties were bitterly hostile to Mr. Beaney, and although no man was more capable of giving a correct professional opinion than Dr. Barker on the subjects in dispute, yet it was too much to expect from human nature that it should be perfectly unbiassed. Dr. Neild's evidence was not given in an impartial scientific spirit, with

a sincere wish to enlighten the jury on difficult points, or to explain to them all he knew on the subject, whether he considered himself an expert or not. The Coroner is quite right in inveighing against the action of the Crown in not employing counsel to assist the police and leave the Coroner unfettered in his action as a judge. The jury appear to have been the only parties who acted throughout in a fair and impartial manner, for they returned a verdict that Robert Berth died in the Melbourne Hospital, and did not commit themselves by finding what he died of; and although they entered a protest against the rules of the Hospital being broken, a consummation devoutly to be wished for, they completely exonerated Mr. Beaney from any want of skill of attention in performing the operation.

In opening the case for the Crown, the Coroner addressed the jury and said:—That they were to inquire into the death of Robert Berth, who was operated upon at the Melbourne Hospital for stone in the bladder, who died and was buried; but in consequence of a letter which appeared in the *Argus*, signed "A Practical Surgeon," the Minister of Justice ordered a police inquiry in the first instance, then the exhumation of the body for the purpose of a *post mortem* examination, and, finally, a coroner's inquest.

Both Professor Halford and Mr. Rudall declined to make the *post mortem*, but Drs. Barker and Neild, both personally antagonistic to Mr. Beaney, and who could not be considered impartial witnesses, undertook the duty. Dr. Neild was the first witness examined; he described minutely the length, the external and internal appearances of the wound necessarily made for the performance of the operation. It will not be required to wade through the whole of this evidence, but only consider those salient points upon which the whole case hinges. The length of the wound in the perineum was 3⅞ inches, and the breadth 1¾ inches; it is necessary to bear these dimensions in mind, because the difficulty was to extract a stone weighing 6½ ozs., and measuring 3 by 2⅝ by 1⅞ inches, through this artificial canal. During life these soft parts would of course be capable of dilatation to a greater extent than the actual measurement in the dead body. There were some old adhesions of the peritoneum covering the large intestines, clearly showing there had been previous inflammation; the large intestines contained grey hard stools, which ought not to have been found there had an injection been administered as ordered by Mr. Beaney. There was a rent in the rectum,

and numerous fragments of stone were found in the bladder. Both ureters and kidneys were highly congested, and two small stones were discovered in the right kidney; no wound or opening into the peritoneal cavity was found, nor was there any injury to the bladder, clearly indicating that the operation had been *properly performed*, and that the peritonitis which existed in the pelvic region was the result of the difficulties encountered in extracting an unusually large stone. Dr. Neild believed the cause of death to have been, shock from injuries received during the operation, and consequent inflammation of the bladder, ureters, and kidneys, and their peritoneal coverings. Had he confined himself simply to stating the fact that the man died from peritonitis, it would have been a correct deduction, from the congested and inflamed state of those organs; but how he could infer that the patient, whom he had never seen during life, died from a shock, is equally as illogical as untrue. In answer to the Coroner he stated, he could not find the membraneous portion of the urethra, the prostate gland, or the neck of the bladder, although he searched for them; they appeared to have been removed by violence. According to this statement, they must have been torn out during life, of which fact there is not the slightest evidence adduced by any one of the witnesses who were present at the operation. As decomposition of the body was so far advanced, and these soft and injured parts would be the first to decay, it is a very strong assertion to make, with so little to justify it. When cross-examined by Mr. Purves as to whether he, Dr. Neild, might not be fallible as to the cause of Berth's death, the reply was, "I speak from what I have seen, and I can only give an opinion from the *post mortem* appearances." Now Dr. Neild must be a much greater pathologist than he has the reputation of being, if he could say that there could have been no previous inflammation of the kidneys, either recent or remote, and that their claret-coloured appearance and congestion of their vessels was solely due to inflammation supervening immediately after, and due to the operation. It is admitted there was no organic disease of the kidneys, but there might have been several different attacks of inflammation of these organs, which it would be impossible either to prove or deny, from the appearance of these organs at the *post mortem*. Dr. Neild speaks with all the confidence of youth when he says that the cause of death was not a surmise, but a logical conclusion from the facts as presented at the *post mortem*. Medical men are usually more cautious, and generally tell a jury that there was

a sufficient amount of injury or disease present to account for death, and that probably death ensued from this cause. It is difficult to understand what Dr. Neild meant when he used the expression, "If you think it will tell against me." Dr. Neild was supposed to have made the *post mortem* for the purpose of enlightening the jury as to the facts of the case, and what was to be deduced from them; if he felt he could not do this without being influenced by party feeling he ought not to have put himself in the witness box; and it was in very bad taste that he subsequently refused to answer any more surgical questions: he was bound to tell all he knew and allow the jury to take it for what it was worth, as coming from a pathologist and not an operating surgeon. After a great deal of talk and much fencing, in which little material in the way of evidence bearing on the subject was elicited from the witness, the examination closed. Edward Barker, surgeon, was next examined. He explained that he did the cutting part of the *post mortem*, and fully endorsed all Dr. Neild's statements. He then described the different operations for lithotomy. He had the candour to acknowledge that it would be impossible to extract such a stone by any of the operations for lithotomy he had previously described without considerable injury to the soft parts. Retiring modesty apparently is not one of the attributes of our Melbourne surgeons, and Mr. Barker is not an exception to the rule. He talked to the jury as to the ease with which the suprapubic operation could be performed; the facility with which the size of a stone could be measured in the bladder; and that crushing it *in situ* was a mere bagatelle; and that he had performed this very operation (Lloyd's) twenty-five times. How truly Anthony Trollope hit the peculiar blot of Victorian weakness, and gave them a piece of advice which might with benefit be written over the portals of the Melbourne Hospital, "Don't blow." The average amount of deaths in lithotomy cases had been one in six, which, if borne out by statistics, is a favourable ratio. Mr. Barker disagrees with Erichsen, that the median is not the best operation for extracting a large stone; it is a great pity, but so much the worse for Erichsen. No doubt he will feel it acutely when he reads the account of this operation in the London *Lancet*, or *Medical Times*. On being asked by Mr. Purves whether he did not once operate for ovarian tumour, and fail to remove it, he meekly replied, "yes;" though further on, when asked had any surgeon cut for the stone and found none, his answer was, "It has been done by qualified

surgeons, but I should not call them qualified:" the justice and liberality of these remarks in two strictly parallel cases speak for themselves. Mr. Barker is then asked, are there any lithotrites which could be passed through the penis into the bladder and break this stone in three minutes? Would it be believed the answer was "yes"? *Credat Judeus.* The following evidence may be taken *cum grano salis.* First, that a patient in ordinary cases may be kept two hours under the influence of chloroform while waiting for an instrument during the performance of an operation, without injury; next, that he, Mr. Barker, considers he is very long if he takes more than three minutes to perform the operation of lithotomy. Perhaps, after all, there was not so much to find fault with Mr. Barker's evidence. Probably he spoke what he thought to be true according to his light, but the sound of the trumpet was much too loud, especially when blown by an inferior performer.

George Annand, resident surgeon at the Melbourne Hospital, next appeared on the scene; he gave evidence that the deceased's name was Robert Berth, aged forty-one years, in tolerable health, but suffered pain in bladder, especially when walking; that Mr. Beaney saw him on Tuesday, and passed a sound into the bladder; also that there was no consultation with the other honorary officers held on the case. The operation took place on Thursday, and lasted about an hour and a-half, a very different estimate from that of Dr. Dempster, who timed it by his watch from first to last at forty-five minutes. He further said, in answer to the Coroner, that a great deal of force was used, and that it was levered out by Mr. Beaney and Dr. Webb, inferring that it was prised out like a boulder stone in a hole by two crowbars, when in fact it was drawn through the opening into the bladder by one scoop held at the top and back of the stone by Dr. Webb, and one at the bottom and back by Mr. Beaney, the tube not being used as a fulcrum by either scoop. Such a statement by Dr. Annand is usually described in logic as a *suggestio falsi.* It appears that Dr. Annand had charge of the case after the operation. So, in answer to the Coroner as to what happened to the man, and whether he recovered from the shock, it appears there were no symptoms of any shock to the system at all from effects of the operation, and was doing well until peritonitis set in, which carried him off. The next portion of Dr. Annand's evidence is rather amusing, and shows the exact discipline and strict obedience to the orders of the

superior officers. He admits that it is the business of the honorary surgeon to give any directions he wishes, and it is the duty of the resident surgeon to carry them out. Mr. Beaney ordered the man an injection. Dr. Annand orders the wardsman to give it. The wardsman does not think it necessary as the bowels had been open, and the order is neglected. Comment on this is superfluous. Upon being pushed by Mr. Purves as to what the patient died of, Dr. Annand replied peritonitis, entirely omitting the shock, which was discovered by Dr. Neild at the *post mortem* examination !! The remaining portion of the cross-examination was immaterial to the general issue.

The next witness examined was John Williams, who described himself as resident physician of the Melbourne Hospital. He stated he was present at the operation for stone on the 2nd December as a spectator, and described what he saw. There was great difficulty in extracting the stone after the incision into the bladder, as the forceps always slipped off the stone; two scoops were then used as levers; very great force was used, and the stone was finally levered out. In this statement he is flatly contradicted by the evidence of Dr. Webb, and by the fact that it would be mechanically impossible to lever out a stone from the bottom of an artificial canal four inches in depth, and only one and three-quarter inch in breadth, it must of necessity have been drawn out along the course of the canal, and not levered out, in the common acceptation of the meaning of the word. The remaining portion of the evidence he gave hardly requires consideration; he appeared to have little knowledge of the subject, and his testimony was not given in the manner one would expect from a junior physician in the Hospital while criticising the acts and duties of his superior officer. True, he had only been a short time in the Hospital; but he is old enough to know that due subordination to superior authority is absolutely necessary on all occasions in every condition of life.

It is quite refreshing after the evasive, one-sided evidence hitherto given, to read Dr. Dempster's account of what he saw while present at the operation; it is clear, logical and precise; moreover, as he had little previous knowledge of Mr. Beaney, it must be presumed it was quite unbiassed. He relates how the median operation was performed and the stone reached very well, how the stone was found to be very large, and what difficulty there was to extract it with the forceps, and that it

was eventually drawn out by the scoops by Mr. Beaney and Dr. Webb by a combination of force and leverage.

The whole operation, counting from the administration of the chloroform to the extraction of the stone, occupied forty-five minutes, as timed by Dr. Dempster's watch. He had never seen so large a stone before; and although he had suggested to Mr. Beaney the propriety of crushing the stone, none of the lithotrites at hand were equal to the work. When asked if he had seen any neglect or want of care, he distinctly replied, No; and he acknowledged he saw a great deal of force used. Such a plain, unvarnished tale, told by a disinterested spectator, would be quite sufficient to carry conviction to the minds of a jury that the operation was properly performed; that the difficulties met with were due to the unusual size of the stone, and, finally, that the charge of malpractice was utterly destitute of foundation.

Patrick Moloney, Bachelor of Medicine, was next examined, who gave his evidence in a straightforward manner, without any reticence or equivocation. He simply went over the same ground in describing what he saw as the other professional witnesses. He saw the stone was a very large one, and did not think that more force was used than was necessary to complete the operation. In his opinion the lithotrite handed to Mr. Beaney to crush the stone with was not strong enough for the purpose. He explained that two courses were open to Mr. Beaney, either to enlarge the wound or decrease the size of the stone; but it was a moot question amongst surgeons which was the best course to follow—dilatation or crushing.

John Holden Webb, M.R.C.S., was next examined by the Coroner, and deposed: that he was a legally qualified medical practitioner; that the case had been sent down from the Amherst Hospital for him, Dr. Webb, to operate on for stone. The medical man at Amherst told him the stone was fairly large. Berth went to Dr. Webb's house, at East Melbourne, and the day following was taken very ill, so much so that he had to lie on Dr. Webb's couch for some hours; this fact, taken in conjunction with the acute pain caused by passing the sound in the Hospital, and the appearance presented by the kidneys and ureters at at the *post mortem*, clearly indicates that there was congestion or subacute inflammation of these organs prior to the operation. Dr. Webb described all that was done by Mr. Beaney after the stone was discovered to be very large, in which he is in accord with the other

medical witnesses; also, how at last Mr. Beaney passed the scoop under the stone; and he, Dr. Webb, got another scoop over the stone; and, by pressing the upper scoop on the top of the stone against the bottom scoop, the stone rolled out and fell on the floor. If Dr. Webb's evidence is worthy of credence, and there is no reason to believe the contrary, it clearly indicates that the stone was drawn through the orifice, and not levered out so as to cause injury to the pubis or surrounding tissues. Two operators working in such a circumscribed space as the opening between the urethra and the rectum would be able to describe more correctly what they were doing than either attendants or spectators at a distance of a few yards.

He acknowledged that the scoop was bent in doing it; but a fair amount of force may be used in a case like this.

Dr. Webb was asked by a juryman whether he had had any experience in operations for stone. He replied that he had been house-surgeon at the Lock Hospital, London, and while there was in the habit of attending the operations for stone at St. Peter's Hospital in the next street. He had seen more than 100 operations for stone. He admitted he had never seen so large a stone. When asked by Mr. Purves if he knew, or had read, what disease the Emperor Napoleon died of, he replied, yes; the Emperor died of acute pyelitis, caused by the pressure of the stone on the orifice of the bladder. He described this disease as one that remained dormant for a time, and suddenly became active after some interference with the genital organs.

Angustus Lewellin, resident physician at the Melbourne Hospital, was the gentleman who administered the chloroform in this case. He saw little and knew less of the operation, as he was busy attending to his particular duty.

Mr. William Stewart Smythe, physician and surgeon residing at Sandridge, was present at the operation. He stated that the cutting portion of the operation was done in a very reasonable time, and the whole operation lasted about an hour. From the position he occupied it was difficult to see properly, as the operators were between him and the patient. First straight forceps were used, then curved ones, without success. As they always slipped off the stone, the scoops were then used, and then, to use his own words, "there was some leverage force employed; one scoop being used against the other; the scoops being held by different individuals. Ultimately, the stone was extracted, and fell on the floor." This evidence would indicate that it was gradually

drawn out. Had it been levered out, it would most probably have sprung out from the force employed, and not have dropped quietly on the floor of the operating theatre.

Had seen more than fifty operations for stone performed in different parts of the world, and did not hear Mr. Beaney say that he would perform the median operation, as the stone was a small one. Finally, he gave it as his opinion that from the length of time the patient had been under chloroform, he would have hesitated before performing the supra-pubic operation. (This view is not quite in accordance with that of Mr. Barker respecting the chloroform).

Edward Heffernan, bachelor of medicine, was present at the operation, but did not wait till it was over. He saw the forceps used, and a scoop used by Dr. Webb, and inferred it was used to lever the stone out. At this period Dr. Annand was recalled and questioned as to the size of the stone. He said he had passed a sound into the bladder, and found the stone was a large rough one; and this fact was duly entered into the case-book of the Hospital. Had made no examination of the urine; but did not give any explanation why this very important and necessary proceeding had been omitted. When Dr. Annand was asked by Mr. Purves whether there was any ill-feeling amongst the staff of the Hospital, honorary or resident, the rather equivocal reply was given, "I don't know that there is any *particular* ill-feeling." Dr. Annand was here cross-examined on several collateral points, not bearing particularly on the general issue, or materially affecting the facts in dispute.

At this stage of the proceedings the Coroner desired that Dr. Webb might be called, as he found that the statement made by him to the Detective Police (and it was upon this very statement that the inquest was held) was quite at variance with the evidence given before the Coroner's jury, and he (the Coroner) would like Dr. Webb to explain how this happened. It was upon this statement, and other similar statements that the body of the deceased was exhumed and all this inquiry and trouble brought about. The Coroner went on to say that Mr. Duncan's evidence should be taken first, and accordingly Mr. Duncan, the detective officer, was examined.

He stated that in accordance with instructions from the officer in charge of the Detective Police to make inquiries into this case, he called on several medical men, and among the number, Dr. Webb. "From those gentlemen I received certain particulars in connection with the case,

which particulars I read to Dr. Webb. I asked him whether he agreed with these particulars or not ; he replied, 'I agree with them.' I then said, 'Dr. Webb, will you be good enough to answer me a few questions?' and he answered in the affirmative. In reply to my questions, he stated that he took part in the operation as lieutenant under Mr. Beaney, and was bound to do as he was told. After describing the first part of the operation, which was done in rather a sort of hacking way, he related how the stone generally slipped from the forceps, and he suggested to Mr. Beaney to crush it. I then said to Dr. Webb, 'Suppose, Doctor, this had been your own operation, what mode would you have adopted?' He replied, 'the suprapubic,' and showed me on a sketch where the suprapubic operation should be performed." The detective then went to the Hospital and interviewed Drs. Williams, Duncan, and Annand, resident medical officers in that institution, and received a written report of the operation from Dr. Williams, and a sketch of the parts operated on, he thought from Dr. Duncan, though he was not quite sure. What would be thought in an English Hospital of such strange conduct of the junior officers of the establishment, that three weeks after an unusually difficult and fatal operation for lithotomy they should have a report all cut and dried, with a sketch to accompany it, drawn from imagination, ready for the detective officer when he called to make his preliminary inquiries. This written report was not one drawn up from the facts of the case, in the interest of the profession and scientific inquiry, but with the undisguised and apparent aim of founding a charge of gross malpractice and criminal liability against the senior surgeon of the Melbourne Hospital, who, although recently elected, had on a former occasion held the position of surgeon to the same Hospital for five years, with credit to himself and the general approbation of the community. The very fact that they were parties to such a nefarious transaction will be a sufficient punishment to the parties, without the humiliating feeling which will be always present to their own minds whenever they reflect upon the share they had in this disgraceful proceeding. Whether the gentlemen were the prime movers in the affair, or only puppets put in action by certain wire-pullers behind the scenes, matters very little ; the fact of endeavouring to entangle their senior officer in the meshes of the criminal law from motives of envy or hatred is bad enough, but to do so at the instigation of others is despicable.

Dr. Webb, on being examined by the Coroner, denied on oath ever having used the word hacking ; on the contrary he said that the opera-

tion, as far as catching the stone, was done exceedingly well. He did not recollect the sketch. "The detective may have used the word supra-pubic without my hearing him, though I am certain I did not use the word to him. I may have used the word at the time of the operation, though I am not quite certain of that. Dr. Webb made a few other remarks to the Coroner, which were immaterial, and this finished his evidence.

There is undoubtedly a considerable discrepancy between the evidence given by Dr. Webb in the first portion of his examination and his previous conversation with Detective Duncan; but there will always be a difference between statements made on oath, where every word must be weighed so as to be in strict accordance with what the witness believes to be the truth, and a gossiping conversation with a detective. As a rule, the detective will generally infer more than the witness intended to convey, and unintentionally deceive himself as to the true purport of the words used during the conversation. This discrepancy was rather unfortunate for the ends of the prosecution, for the Coroner distinctly stated that the inquest was held principally upon the faith of the statement of Dr. Webb, made by him to the detective officer.

Had Detective Duncan exercised his vocation during a former generation, he would have acquired more experience than to place too much reliance on the preliminary statements of a *non mi ricordo* witness.

James Campbell Duncan, one of the Resident Surgeons, and in charge of the instruments of the Melbourne Hospital, deposed as to the lithotrites and scoops being in proper order at the time of the operation; that the scoops were not levers; they are used for drawing the stone to the opening of the bladder, and he might have added through the orifice of the wound made for the extraction of the stone; that the lithotrites were strong enough to crush road-metal. He himself had actually used a ten-guinea lithotrite to crush a piece of granite 1½ inches by ¾, and had succeeded. This gentleman must be a careful guardian of delicate and expensive instruments, though the experiment is matter of small moment, as the public and Government pay all expenses. On being asked by Mr. Purves whether he was a surgeon, he replied, "My degree is medical. We don't respect medical or surgical degrees here, we respect only a degree which makes us surgeons or physicians;" meaning, of course, the degree conferred by the Melbourne University. The home authorities evidently have not the same respect for this degree as a surgical qualification, for they simply ignore it altogether. Surgeons taking a degree at the Melbourne University hold only local rank in Victoria, elsewhere they are unqualified.

REPORT OF THE INQUEST.

INSPECTOR Green, Sub-Inspector Secretan, and Detectives Gould and Duncan, were present for the Crown; Mr. Purves, barrister (instructed by Mr. J. G. Duffett, solicitor), appeared to watch the case on behalf of Mr. Beaney, F.R.C.S.

The jury having been sworn,

The CORONER, addressing them, said—The inquiry about to be held is as to the cause of the death of a man named Robert Berth, which took place under the following circumstances:—The deceased was operated upon in the hospital for stone in the bladder; he died, and was buried. Nothing was heard of the matter at the time, but afterwards, in connection with another inquest, some correspondence appeared in the papers, and a letter in the *Argus*, signed "A Practical Surgeon," called the attention of the Minister of Justice to this case. An inquiry was ordered to be made by the police, and the result of that inquiry was that an exhumation of the body was directed. Feeling some difficulty in getting an unprejudiced person to make the *post mortem* examination, I applied to Professor Halford, Professor of Anatomy at the University, who positively refused to act; Dr. Lawrence, the Demonstrator of Anatomy, was out of town; and Mr. Rudall, the Pathologist at the Hospital, declined to make the *post mortem*. Consequently Mr. Barker, the Lecturer on Surgery, and Dr. Neild, the Lecturer on Medical Jurisprudence, were applied to, and undertook the duty. There can be no doubt as to the facts, but it will be for you, after hearing the evidence, to decide on the interpretation of the facts.

The jury having viewed the body, which was lying in an adjoining room, the examination of the witnesses was proceeded with.

NEILD. JAMES EDWARD NEILD, Doctor of Medicine, examined.

By the CORONER.

Q.—Have you written your evidence. A.—Yes?

Q.—Will you read it? A.—Yes.

The WITNESS then read as follows :—On Saturday, the 25th inst., in conjunction with Dr. BARKER, I made a *post mortem* examination on the body of Robert Berth, at the Melbourne morgue, Mr. Beaney, Mr. Fisher, and several other medical men being present. Externally, the body was in an advanced stage of decomposition; the eyelids were swollen, the upper lip was pushed up, the scrotum and penis were distended with gas. There was a wound with roughened edges in the perineum in the middle line of the body. Its length was 3⅞ inches, and its greatest breadth 1¾ inches. A probe introduced at the upper part of this wound, and passed downwards, passed freely into the rectum without any considerable force being used. There was no other mark of external injury. Internally, the membranes of the brain were collapsed, and the brain substance was pulpy. There was no evidence of disease or injury about the head. The contents of the chest were healthy. The liver and spleen were healthy. The small intestines, at their upper floating edges in contact with the front of the belly, were congested. There were some old adhesions of the peritoneum at the lower portion of the large intestine, on the left side. There was no effusion into the peritoneal cavity, and no wound of the peritoneum. The stomach and the small intestines, and the large intestine down to the commencement of the straight gut, were opened. They were found to be free from organic disease. The stomach contained a small quantity of dark brown fluid, adhering to its mucous membrane. Beneath this latter there were some vesicles of air, the result of decomposition. The small intestines contained bilious chyle and soft stools. The large intestine contained grey hard stools. At the union of the mesentery with the large intestine there was some congestion in places. The kidneys and ureters were now dissected out, but not detached from the bladder, and the necessary soft parts were divided. The bones of the pelvis were sawn through, and the contents of the pelvis, along with the scrotum, penis, and perineum, were removed in one mass. All these parts were seen to be in a good state of preservation. There was a dirty-reddish greasy fluid in the pelvis. A portion also of this was removed for future examination. A finger passed into the wound, in the

same way as the probe had been passed, showed that there was a continuous rent from the bladder into the rectum. Numerous fragments of stone were felt within the bladder. On the bladder being opened from above, these fragments were found to be very numerous. Most of them were sticking firmly into the mucous membrane of the bladder. The tear in the rectum was two inches in length. The edges were black and sloughy. The left kidney, on one section, was seen to be of a deep claret colour. The left ureter, especially at its entrance into the bladder, was much congested. The right kidney was highly congested. It contained two small smooth stones. [Witness produced the stones.] The right ureter, along its whole length, was intensely congested. The prostate gland was not visible. The parts within the bladder, for some distance around the wound, were black and much bruised. On the following day the parts were again examined by myself, Dr. Barker, and Dr. Williams. No wound of the peritoneum was found, but over the bladder, and between the bladder and rectum, this membrane was found to be exceedingly congested. All the parts from the triangular ligament to the wound in the bladder, including the membranous portion of the urethra, the prostate gland, and the neck of the bladder, were destroyed. The fluid taken out of the pelvis was examined microscopically, and found to contain oil globules, blood corpuscles, and pus cells. I believe the cause of death to have been shock from injuries received during an operation, with consequent inflammation of the bladder, ureters, and kidneys, and peritonitis. [Witness also produced some of the fragments of stone taken out of the bladder]. Dr. Neild.

The Coroner.—What are we to understand by this portion of your statement:—"All the parts from the triangular ligament to the wound in the bladder, including the membranous portion of the urethra, the prostate gland, and the neck of the bladder, were destroyed"?

Witness.—They were not present. We searched particularly for them, and could not find them. They appeared to have been removed by violence, from the condition of the urethra and the parts that remained.

Cross-examined by Mr. Purves:

Q.—Dr. Neild, have you had any practical experience of the operation of lithotomy? A.—I have never performed it myself, but I have seen it performed a great many times.

Q.—And also the operation of lithotrity? A.—I have also seen lithotrity performed.

NEILD. Q.—In ordinary non-professional language, one is cutting for stone and the other is crushing for stone? A.—Yes.

Q.—In your opinion, what is the greatest danger to be apprehended by the operator in the operation of cutting for stone? A.—There are a great many dangers.

Q.—I ask you the greatest? A.—I am hardly prepared, at this moment, to say what is the greatest danger; but there are a great many circumstances which suggest danger.

Q.—Exactly. It is surrounded—hedged in—by a network of danger? A.—No question about it. It is a very grave and serious operation.

Q.—Is not the gravity and seriousness of the operation to a great extent dependent upon the size of the stone? A.—It is influenced by the size.

Q.—Is it not altogether dependent upon the size? A.—I don't say altogether dependent.

Q.—To a great extent? A.—Yes, to a great extent.

Q.—It is an operation of grave difficulty? A.—No doubt.

Q.—Would not a material danger to be apprehended be disease—incipient or active disease—of the kidneys? A.—No doubt of it.

Q.—If disease of the kidneys existed at the time of the operation of lithotomy, would not that be one of the grave dangers you speak of? A.—Yes, it would be a source of complication.

Q.—Do you know of a disease called "surgical-kidney"? A.—Yes; the kidneys are subject to a great many diseases.

Q.—Do you know this particular disease? A.—I have had no practical experience of it. I know it is included in the enumeration of diseases of the kidney.

Q.—Would the fact of your finding these two calculi embedded in the substance of the kidney of this man show that there was active disease of the kidney? A.—No, not necessarily.

Q.—Would it show disease of the kidney? A.—No, it would not.

Q.—Do you mean to say that a healthy kidney will have stones encysted in it? A.—Yes, I have taken large stones out of the kidneys where there was no disease of the kidneys.

Q.—Then, in your opinion, a calculus in the kidney is not a disease at all? A.—I did not say so. I said there might be no disease of the kidney although a calculus was found in the kidney. The calculus itself represents a kind of disease.

Q.—The fact that you found two stones encysted in the kidney does not show that the kidney itself was diseased? A.—No, it does not. Dr. Neil

The Coroner.—You say that you have taken large stones out of the kidney where there was no disease?

Witness.—Where there was no kidney disease whatever—no symptoms during life. [Dr. Neild here produced a calculus about the size of a pigeon's egg, and said—I took this from the kidney of a woman who died from apoplexy.]

Cross-examination by Mr. Purves continued.

Q.—Would inflammation of the kidney be a disease, in your opinion? A.—There are many kinds of disease. There is organic disease; there is functional disease, and there may be congestion of the kidney. I should not call congestion of the kidney an organic disease.

Q.—I use the word "disease" in its ordinary acceptation; that is to say, the kidney is not in its natural state? A.—If you use the word "disease" in its broader sense, no doubt, a highly congested kidney would be a diseased kidney.

Q.—Well then, inflammation of the kidney is a disease? In the case of a man known by diagnosis to have diseased kidney, would you adopt lithotomy or lithotrity—crush or cut? A.—My opinion is that lithotomy is the safer plan under any circumstances.

The Coroner.—Then you would cut under ordinary circumstances?

Witness.—Yes; if I were an operator, which I do not profess to be, I would prefer to cut rather than to crush.

Mr. Purves.—You say the left kidney of the deceased was highly congested?

Witness.—Yes.

Mr. Purves.—How long had that disease existed in the patient before death, do you suppose?

Witness.—Considering there was no organic disease, it need not have existed at all before death. You mean before the operation, I suppose?

Mr. Purves.—No, I don't; I mean before death.

Witness.—It did not exist very long before death, I think.

Mr. Purves.—How long?

Witness.—Several days probably.

The Coroner.—It was acute, and had lasted not longer than a few days?

NEILD. WITNESS.—I believe so.

Cross-examination by Mr. PURVES continued.

Q.—Have you read an account of the operation performed on the late Emperor Napoleon? A.—Yes, I read an account of it at the time.

Q.—Do you know that he died from the disease called "surgical kidney"? A.—Well, there is a good deal of doubt as to what he died from.

Q.—Then you admit that, in any case, there may be a doubt in the mind of the most skilful physician as to the cause of death supervening on this operation? A.—Yes, certainly there may.

Q.—Even your opinion as to the cause of death in Robert Berth's case may be fallible? A.—Well, I only speak from what I have seen. I never saw the deceased during life; and, therefore, I can only give an opinion from the *post mortem* appearances.

Q.—But you will not attempt to say that your opinion is infallible, seeing that the greatest authorities differ on so important a case as that of the late Emperor Napoleon's? A.—I would not like to say that anything I stated was infallible; but, as far as I can see, I have no reason to doubt the correctness of what I have told you in my evidence.

Q.—No doubt you are satisfied with your own judgment, but you will not deny it is fallible? A.—I would rather not believe it is, because I have taken special pains to satisfy myself on this matter.

Mr. PURVES.—Let me call your attention to an article in the *Lancet*, headed, "Surgical Kidney." It says—

"In the report of the *post mortem* examination of the body of the Emperor Napoleon, it is stated that 'disease of the kidneys existed to a degree which was not suspected, and, if it had been suspected, could not have been ascertained.' Commenting upon this, the *Times* says: 'A man may still, it appears, die under the hands of the first doctors in the world of a great organic disease, without their knowing anything about it.' Unfortunately we have to plead guilty to this charge, but there is much that may be said in mitigation of sentence. The practical surgeon only knows too well"—

Do you agree that this is a case for a practical surgeon, and not for a physician?

WITNESS.—I am not giving an opinion as a practical surgeon. My opinion is derived simply from the *post mortem* examination. That is my special duty. You will probably have evidence as to the surgical part of the case which you will receive with more authority than mine.

I refer to the evidence of Dr. Barker and others, who have given their attention to practical surgery. I only tell you what I saw, and the conclusions which I draw from the appearances that the body presented. Dr. NEIL

Mr. PURVES.—The article on "Surgical Kidney" goes on to state—

"The practical surgeon only too well knows that, take what precautions he may, a certain proportion of all operations performed on the urinary organs, even, occasionally, the simplest of all, passing a catheter, will prove fatal from inflammation of the kidneys."

Do you agree with that?

WITNESS.—Yes, I have no doubt of that.

Mr. PURVES.—The article proceeds—

"How to recognise beforehand which are the cases destined to such a termination has as yet baffled his skill. Even near the fatal termination it is not always easy to recognise the disease with certainty. The form of kidney found in such cases, from its occurring almost exclusively in surgical practice, is frequently known by the name of surgical kidney."

Do you deny that there might have been chronic inflammation of the kidneys, seeing that there were two large substances embedded in the right kidney?

WITNESS.—I don't call them large substances. I call them very small ones. I have seen much larger ones in the kidneys.

Q.—You may have seen larger ones; but, as there were these two substances embedded in the deceased's right kidney, will you state that there was no chronic irritation of the kidney? A.—It is quite possible there may have been some little irritation. I cannot speak of that. You will have other evidence. You had better state facts instead of surmises.

Q.—Will you attempt to say that your opinions are not surmises? A.—I have made no surmises. The *post mortem* appearances are actual facts. The description I have given of the result of the *post mortem* examination consists of actual facts.

Q.—Then the cause of death is not a surmise? A.—It is a logical conclusion from the facts as I observed them.

Mr. PURVES.—This article on "Surgical Kidney" states that—

"The kidney thus suffering from chronic irritation may be said to be in a highly inflammable condition, requiring only a slight additional irritation to rouse its latent activity and to start changes hopelessly incompatible with life."

Do you agree with this? A.—Undoubtedly.

Q.—Would chronic irritation of the kidney—the latent fire there being stirred into activity by any operation such as I have mentioned—be

. NEILD. a more fatal sign than a mere lesion or bruise? A.—It would depend upon the amount of injury.

Q.—That is not an answer to my question. I want to know which is the more deadly symptom—inflammation of the kidneys stirred up by an operation, or a mere lesion, or bruise, or wound? A.—I do not call a large hole in the bladder and another large hole in the rectum a mere lesion.

Q.—I have not come to that. Will you answer the question? A.—What I saw—in fact, a wound in two large organs—is quite sufficient to satisfy my mind that the man may have died from that, apart from anything else.

Q.—He may have died? A.—Yes.

Q.—But, having read you this authority, which do you consider the more serious disorder consequent upon an operation, a mere lesion, or a wound (if you choose to call it so), or active irritation of the kidneys? A.—I prefer to look at what is most obvious. The large wounds I saw are much more likely to account for death than anything you may suppose was existing.

Q.—But was the inflammation which you have stated did exist a more serious symptom in a patient who had just been operated upon? A.—I say that the inflammation was the result of the injury of the operation. That is my opinion.

Q.—Your opinion? A.—Yes.

Q.—Why did you preserve these stones—the stones found in the right kidney of the deceased? A.—I always preserve anything that is unusual in connection with any *post mortem* examination I make. If you think that they tell against me, that is a tribute to my disinterestedness.

Mr. PURVES.—Tell against you! Surely you have no interest in this matter, Dr. Neild?

WITNESS.—Not the slightest.

Mr. PURVES.—Then what do you mean by "tell against you?"

WITNESS.—You are endeavouring to show, as far as I can gather from your questions, that these small stones in the right kidney of the deceased, were really the essential cause of that inflamed condition to which I believe you ascribe the death.

Mr. PURVES.—Is that a surmise or a fact?

WITNESS.—It is no surmise. There was a large amount of inflammatory action.

Mr. Purves.—I mean, is your statement as to my object in examining you on the point a surmise or a fact?

Witness.—Your object, as I gather, is to show that the man might have had disease existing before the operation was commenced.

Mr. Purves.—Do you recognise Cooper as an authority on these matters?

Witness.—Do you mean Samuel Cooper, Sir Astley Cooper, or Brandon Cooper? There are so many Coopers.

The Coroner (to Mr. Purves).—Don't you think that, on these points, you had better examine the surgeon who made the *post mortem* examination in conjunction with Dr. Neild?

Mr. Purves.—I am under your directions, Mr. Coroner. This is your court.

The Coroner.—Well, I make that suggestion to you.

Mr. Purves.—*Cooper's Surgical Dictionary* says:—

"There is, finally, another cause of death after lithotomy, namely, disease of the kidney and pyelitis; but in most cases it will be found that the operation only hastened death, and has not been its actual cause. However this may be, Mr. Bryant's table shows that pyelitis and inflammation of the kidneys were the cause of death in six out of forty fatal cases. This is a very large proportion, yet not to be wondered at when the condition of many patients labouring under stone is remembered. Vesical calculus seldom exists for any considerable time without producing either disease of the kidneys, or a tendency to disease in these organs, which the slightest exciting cause may light up. Many patients labouring under incipient disease of the kidneys, or with suspicious symptoms, are thus operated on and compelled to run a risk which, in the nature of things, it is impossible for them to avoid."

Do you agree with this?

Witness—Yes, but as a great many people are operated upon and recover perfectly, it is obvious they don't suffer from fatal disease of the kidney.

Q.—Do you know, as a fact, how many years the man Berth had suffered from stone? A.—No, I don't know anything of it.

Q.—Suppose he had suffered from stone for seven or eight years, and that he had been in the hospital several times in consequence—would that, in your opinion, set up this chronic inflammation of the kidneys you speak about? A.—Well, knowing that, I am surprised I did not find more disease of the kidneys. If he had been suffering from very active irritation all that time, there should have been something like organic disease of the kidneys, which there was not.

r. NEILD. Q.—Was not the body in a very emaciated state? A.—No, I should not call it emaciated. The deceased was a spare man, but not emaciated.

Q.—Will you deny that he was extremely emaciated? A.—I will In my opinion he was not extremely emaciated.

Q.—Would the fact of a patient being in a weak state, from having suffered for many years from this disease, have any effect? Might it be attended with serious results in the case of an operation of this kind? A.—I should think the longer the man had been suffering from the disease, the more unsuitable he would be for bearing an operation. That is, speaking generally.

Q.—Now, what operation was it that was performed? A.—I cannot tell you; I was not there.

Q.—Then, do you, a gentleman who has already said that you pride yourself on your *post mortem* experiences, assert you cannot state what the operation was because you did not see it performed? A.—Not with the parts pulled about and destroyed as they were in this case.

Q.—Is the statement that they were pulled about and destroyed a surmise or a fact? A.—They certainly had been pulled about and destroyed by some one. I am not saying by whom, or at what time.

Q.—Then you don't know what particular operation had been performed for stone in this case? A.—Well, I can only surmise. I should think what is called the median operation had been done; but the fact that I examined the body three weeks after the man had been buried, and the ruin there was to some of the parts, necessarily compels one to speak a little guardedly on the point.

Q.—Was the body in an advanced state of decomposition? A.—Yes, considerably so; but not so as to destroy the integrity of the parts that were essential for examination.

Q.—Were not the parts essential for examination considerably swollen? A.—No, they were rather the reverse.

Mr. PURVES.—I will take your own written evidence. You say, "Externally the body was in an advanced stage of decomposition; the eyelids were swollen, the upper lip was pushed up, the scrotum and penis were distended with gas." Then they were swollen?

WITNESS.—Some portions of them.

Q.—Do you mean to say that only the penis and scrotum were swollen, and that the urinary organs were not swollen? A.—The urinary organs were not swollen; they were, in fact, shrunken.

Q.—Do you mean to say that, in a decomposed body, the penis and scrotum were swollen, and the urinary organs were shrunken? A.—Yes. Wherever you have confined gas you get swelling.

Q.—There was active decomposition internally? A.—There was decomposition all through the body.

Q.—Was not the body distended by gas? A.—No, the body was not. The scrotum and penis were distended by gas, and there was some little gas in the abdomen.

Q.—Was not the whole body distended by gas, the result of decomposition. A.—The whole body was not.

Q.—Were not all the urinary organs? A.—The penis and scrotum were distended, and the other parts were collapsed. Swelling, I may tell you, is simply the result of an accumulation of gas. If the gas can escape there is collapse; if it cannot there is swelling.

Q.—Could you identify the face of the deceased? A.—I did not know the man during life.

Q.—But was not his face all swollen into an unrecognisable mass? A.—His eyelids were swollen, and there was some swelling of the upper lip; but, compared with many bodies I have seen, there was not great swelling of the face.

Q.—Do you know how long the body had been buried? A.—I don't know of my own knowledge, but I learn that it had been buried about three weeks.

Q.—How many times have you seen the median operation performed? A.—I really cannot tell you. I cannot speak from memory.

Q.—Are you familiar with the median operation. A.—Only familiar with it from having seen it done.

Q.—How many times have you seen it performed? A.—I have kept no record.

Q.—Have you ever seen it in your life? A.—Yes.

Q.—How many times? A.—Possibly four or five times.

Q.—Have you seen Dr. Gillbee perform it lately? A.—I have seen him perform it several times at the Melbourne Hospital, but not lately?

Q.—How long ago? A.—I suppose the last time I saw him do it is five or six years since.

Dr. Neild. Dr. Neild here remarked—Mr. Coroner, I think it is highly irregular to cross-examine me on questions of surgery. Dr. Barker, who acted with me in making the *post-mortem* examination, is here, and he will give special information as to the surgical particulars of the case. Therefore, with great respect, I object to this line of cross-examination.

The Coroner.—I will ask you, Mr. Purves, only to examine Dr. Neild on the subject with which he is familiar.

Mr. Purves.—I submit that my cross-examination is perfectly fair. No man can presume to give evidence as to the real cause of death unless he has fully considered all the surrounding circumstances of the operation itself. Therefore, I wish to test Dr. Neild's knowledge of the actual operation performed.

Dr. Neild.—I shall certainly protest against answering any such questions, and shall refuse to answer them.

Mr. Purves.—I certainly think you are going out of the track of your functions in refusing to answer the questions I desire to put to you. These gentlemen, the jury, have to determine the cause of death in this case, and you refuse to give evidence which will assist them to do so.

Dr. Neild.—I refuse to answer any questions which don't relate to the particular duty I was entrusted to perform.

Mr. Purves.—May I ask you who made you a judge of what particular questions you should answer?

Dr. Neild.—I am not a judge, I am a witness. I know what my duties are quite as well as you know yours.

Mr. Purves.—Do you know the operation called the median operation?

Dr. Neild.—I shall answer no more questions unless they relate to the *post-mortem* examination. That is what I was instructed to do, and that is what I have done.

Mr. Purves.—Who instructed you to make the *post-mortem* examination?

Dr. Neild.—Dr. Youl, the Coroner.

The Coroner.—I think, Mr. Purves, that you should cross-examine Dr. Neild as to the evidence which he has given, and not as to some evidence which he has not given. That is to say, you should not examine him on a subject upon which he does not profess to be capable of giving an opinion. I associated two men together—one a

physician and the other a surgeon—to make the *post-mortem*, in order that one might judge of the *post-mortem* appearances as they presented themselves to him, and the other of the surgical operation. You can take the *post-mortem* appearances from one, and the surgery from the other. Cross-examine Dr Neild as far as you choose upon the *post-mortem* appearances, but not upon the surgery, because he does not pretend to be a practical surgeon. It is, therefore, only wasting the time of the jury to ask him questions he is not capable of answering. Dr. NEILD.

Mr. PURVES.—I am in your hands, Dr. Youl.

The CORONER.—Then we will decide it so.

Mr. PURVES.—Then I will continue my cross-examination on his own evidence.

[Cross-examination continued.]

Q.—May I ask you when you wrote this evidence? A.—This morning.

Q.—Where? A.—In my own house.

Q.—Where did you get the printed papers on which it is written? A.—I have always a supply of them. Both Dr. Youl and Mr. Candler invariably request me to write my evidence.

Q.—You say, "There was a wound with roughened edges in the perineum; in the middle line of the body"? A.—Yes.

Q.—Would this describe the wound? [Mr. Purves here exhibited one of Bourgery and Jacob's coloured plates illustrating the operation of lithotomy.] A.—It was much larger; more irregular. It was not so artistically done.

Q.—This is a better picture. A.—A much better picture.

Mr. PURVES.—This is not in an advanced stage of decomposition.

WITNESS.—It makes all the difference.

Q.—Were the edges of this wound at all decomposed? A.—Well, somewhat; in common with other portions.

Q.—What was the result of the decomposition of the edges of this wound? A.—It was not sufficient to mask the appearance. I could tell which was cut and which was torn out.

Q.—Were the edges crumbly? A.—No.

Q.—How were they? A.—I should not say that anything which is moist is crumbly?

Q.—Well, sloughing? A.—Things don't slough when they are dead.

r. NEILD.

Mr. PURVES.—You have now the opportunity of displaying your knowledge which I was desirous of giving you before. What was the result of the decomposition upon the edges of this wound?

WITNESS.—Very little. The decomposition did not at all mask the appearance.

Q.—Was it not in an advanced stage of decomposition? A.—I have said so.

Q.—Then an advanced stage of decomposition is not material, in your opinion? A.—There are stages of decomposition much further and much more complete than in this case.

The CORONER.—Do I understand the decomposition was not sufficient to mask the appearance?

WITNESS.—In my opinion it was not.

Mr. PURVES.—You say the length of the wound was 3⅞ inches. What is the proper length of a wound in the median operation?

Dr. NEILD.—I am not going to answer any question on surgery, not because I don't know, but because I think you are travelling out of the record when you ask such questions. I am not here to describe the operation, nor to say whether it was performed rightly or wrongly. That is not within the scope of my particular function.

Mr. PURVES.—Is it within the scope of your particular function to furnish reports to the newspapers?

Dr. NEILD.—I decline to answer that question. You have no right to ask it.

Mr. PURVES.—Did you ever say, "There was a large ragged opening into the bladder nearly 4 inches long and 2 inches wide, which passed quite down into the rectum. The prostate gland was found to be torn out to such an extent as almost to escape recognition"?

Dr. NEILD.—I shall speak no more of what I said, except what is in the deposition which I have sworn to.

Mr. PURVES.—In that deposition you say, "Its length was 3⅞ inches, and its greatest breadth 1¾ inches."

The CORONER.—That is an absolute measurement, I apprehend?

Dr. NEILD.—Yes.

Mr. PURVES.—Was that the external orifice of the wound?

Dr. NEILD.—If you read the deposition you will see that I am speaking of the external appearances.

Mr. PURVES.—Perhaps you will give me an answer to the question?

Dr. NEILD.—I will not give you an answer unless you ask me a question which I consider myself bound to reply to. It is no use your bullying me, though you may bully other people. Dr. NEILD.

Mr. PURVES.—Was it the external orifice of the wound?

The CORONER.—That appears from the deposition.

Mr. PURVES.—The deposition does not say so. It states, "There was a wound with roughened edges in the perineum, in the middle line of the body. It extended forward from the back of the fundament. Its length was 3⅞ inches, and its greatest breadth 1¾ inches." Was that the external orifice of the wound?

Dr. NEILD.—I began by describing the external appearances, and that portion of my evidence comes under that head.

Q.—Would the size of this wound externally be augmented by the fact that the external portions of these parts were swollen and decomposed? A.—They were not swollen.

Q.—Would it be augmented by the fact that they were decomposed? A.—No, rather the reverse.

Q.—It would be made smaller? A.—Yes, shrunken.

Q.—Was it shrunken? A.—There had been evaporation of the body.

Q.—Were not the edges of this wound soft? A.—Yes.

Q.—Then how could they contract if they were soft—decomposing? A.—Have you ever seen a dead body? A dead body contracts very much.

Q.—Was this a dried up dead body? A.—No; it was a moist dead body.

Q.—Was it in a flaccid state? A.—All bodies are in a flaccid state after eight hours after death.

Q.—This one was? A.—Most certainly.

Mr. PURVES.—You state that, "A probe introduced at the upper part of this wound, and pressed downward, passed freely into the rectum." Do you mean to say it is not necessary to cut the gut or whatever you may please to call it, of the rectum in the median operation?

WITNESS.—I have already told you I will not answer any question of surgery, because it does not belong to this part of the evidence.

Q.—Was there any peritonitis? A.—Yes.

Q.—Where? A.—In the peritoneum.

. NEILD. Q.—Can you explain to the jury what peritonitis is? A.—Peritonitis is inflammation of a membrane which surrounds the bowels and lines the walls of the belly.

Q.—Well now, what portion of this membrane was inflamed? A.—Some portion of the small intestines—the portion first seen on opening the belly, and the portion covering the bladder, and the part between the bladder and the rectum.

Mr. PURVES.—You say there was fluid in that portion of the body?

WITNESS.—Which portion?

Mr. PURVES.—Within the peritoneum.

WITNESS.—No, I did not. I distinctly stated there was no fluid.

Q.—None? A.—None.

Q.—Would inflammation of the peritoneum tend to the deposit of fluid. A.—Yes; in peritonitis at all advanced there would be an effusion into the cavity of the belly.

Q.—There was no effusion here? A.—None whatever.

Q.—What wound was there in the bladder? A.—I cannot carry my recollection unless I have my notes. If you want me to read my notes I will do so. I do not think it is safe to charge my memory with particulars of this kind.

Q.—How long is it since you saw the bladder? A.—Last Monday was the last time.

Q.—Could you not say from memory whether there was any wound? A.—Yes; perhaps I could, but I wish to be correct.

The CORONER.—It is usual for experts to have their notes when they are being examined.

Mr. PURVES.—The rectum was found to contain hard stools?

WITNESS.—Yes.

Mr. PURVES.—Before the operation of lithotomy is it proper to clean out the bowels and rectum?

The CORONER.—You are going into surgery.

Mr. PURVES.—This is not a matter of surgery.

The CORONER.—It is a matter connected with the operation, and about that you will hear the evidence of other witnesses.

Mr. PURVES.—I prefer to have Dr. Neild's evidence.

Dr. NEILD.—I shall not anwer the question. It refers to a matter which is altogether part of the operation, and I had nothing to do with the operation.

Mr. PURVES.—Mr. Coroner, I ask if a witness is to be allowed to direct the method of his cross-examination? Dr. NEILD.

The CORONER.—Dr. Neild is called to give evidence as to the *post mortem* appearances, and you are examining him as to something else.

Mr. PURVES.—The question which I put to him arises out of his own evidence. He says that the rectum was found to contain hard stools. Am I not allowed to cross-examine him on his own evidence?

The CORONER.—You can cross-examine him as to whether it was a fact or not, but not as to whether it was good surgery to leave the stools there, or whether they should be there.

Mr. PURVES.—Well, then, I am tongue-tied. I will, however, ask Dr. Neild this question—Was there any incision or cut in the rectum?

Dr. NEILD.—I have stated so.

Mr. PURVES.—How much of it?

Dr. NEILD.—You will find the details and the measurement in my deposition.

Mr. PURVES (looking at the deposition).—It is not here.

The CORONER then looked at the deposition, and handed it to Dr. Neild.

Mr. PURVES.—Now I ask you, was there a cut in the rectum?

Dr. NEILD.—No, none that I discovered.

The CORONER.—It was a tear, not a cut.

Mr. PURVES.—There was no cut in the rectum?

Dr. NEILD.—None that I observed.

Mr. PURVES.—In the median operation, is there not always a cut into the rectum?

Dr. NEILD.—I refuse to answer that question. I have already told you that you are wasting your own time, the time of the jury, and my time too. I protest against your going out of what I consider the legitimate line of cross-examination.

Mr. PURVES.—Are you acquainted with the operation known as Lloyd's operation for stone?

The CORONER.—That is a question of surgery.

Mr. PURVES.—It is not a question of surgery. I ask Dr. Neild if he knows Lloyd's operation?

Dr. NEILD.—I know a great many things, but I am not going to state them here.

The CORONER.—You will get the surgery from Dr. Barker.

NEILD. Mr. PURVES.—I will call your attention, Dr. Neild, to what Erichsen says:—

"So, in the median operation, the prostate may be dilated to a considerable extent without opening its capsule. I have used the word 'dilate;' but dilatation appears to me to be an erroneous term. I believe that the prostate is not simply dilated, but partially lacerated; that there is an actual laceration of the substance of the prostate, but not extending into or through its capsule. I have often examined the prostate in the dead subject, after it has been subject to this process of 'dilatation,' and have always found its substance more or less torn. A laceration of the substance of the prostate, however, is of no consequence, and only becomes dangerous when it amounts to rupture of the capsule, when it exposes the patient to the fatal accident of extravasation of urine and diffuse inflammation of the pelvia fascia. . . . . In the adult, the main difficulty of lithotomy does not lie in entering the bladder, but in the completion of the operation—that for which the operation has been undertaken—the removal of the stone."

The CORONER.—You can make a speech to the jury, Mr. Purves, after the evidence is closed, and you may then give quotations from any authorities you like. But it is of no use taking up time by reading extracts from books, and asking the witness if he agrees with them. I am willing to allow you every latitude, but it must be within certain bounds. It is of no use to ask the witness questions upon a matter which he knows nothing about.

Mr. PURVES.—If Dr. Neild says he knows nothing about it I will be satisfied.

The CORONER.—That is what he has said.

Dr. NEILD.—I beg your pardon.

Mr. PURVES.—Then you do know, but you refuse to give me the information I seek for?

Dr. NEILD.—Yes, I do.

Mr. PURVES.—Do you consider it comes within the scope of your functions to give an opinion as to the cause of death?

Dr. NEILD.—That is what I am asked to do.

Mr. PURVES.—Then that is within your functions?

Dr. NEILD.—Always.

Mr. PURVES.—Can you state how many immediate causes there are to fear of death ensuing after the operation of lithotomy, and what they are?

Dr. NEILD.—I am not going to do that. You are again travelling out of the record. What you are asking refers to a part of the operation. It is a question of surgery. I did not see the operation, and I had nothing to do with it. There are a number of gentlemen here who

were present at the operation, and they will give you every information you can possibly require. Dr. NEIL

Q.—How do you know that? A.—Because I have communicated with them.

Q.—Have you communicated with Dr. Barker? A.—He was with me when I made the *post mortem* examination?

Q.—Have you communicated with him since? A.—Certainly.

Q.—And have you seen all the gentlemen who are going to be witnesses? A.—Some of them.

Q.—Have you given them as much information as you have given the jury? A.—I have given them all the information I could.

Q.—Have you seen the stone which was extracted? A.—No.

Q.—You do not know whether it was a large or a small one? A.—As I have not seen it I cannot tell.

Q.—Do you say there was any wound in the peritoneum? A.—I think you have asked me that three times. I have stated there was no wound in the peritoneum. It will be next week before the inquest is over if you go on at this rate.

The witness was not asked any further questions.

EDWARD BARKER, surgeon, examined— Dr. BARK

By the CORONER:—

Q.—Were you at the operation performed on Robert Berth? A.—No, I was not.

Q.—You were present at the *post mortem* examination of the body? A.—I was.

Q.—Present, and assisted? A.—Yes, I did the cutting part.

The CORONER (to Mr. Purves).—Shall I ask him if he agrees with Dr. Neild?

Mr. PURVES.—You must be guided by your own judgment.

The CORONER.—Do you agree with Dr. Neild? A.—I do.

Q.—The sizes of the wounds described are the actual measurements? A.—Yes.

Q.—Will you tell the jury how many different cutting operations there are for stone? A.—The commonest of all is what is called the lateral operation.

Q.—That is the most usual? A.—Yes. There is another, called the bi-lateral; and there is a third which is a variation of this. There

ARKER. is another operation by which the bladder is opened from above the pubes. That is done for large stones, and is called the suprapubic operation. There are three different median operations—the Allarton, the Marian, and Lloyd's.

Q.—They are all variations of the same kind of operation? A.—Yes. In Lloyd's he cuts into the rectum. I was the first to introduce that operation into this colony.

Q.—In all these operations the great object is to avoid cutting entirely through the prostate gland? A.—Yes, either cutting or tearing.

[The stone extracted from the patient in this case was here produced].

Q.—Is it possible to extract this stone without considerable injury to the soft parts by any of these operations? A.—No, utterly impossible.

Q.—Could it be done by the suprapubic operation? A.—Yes, it might be done by the suprapubic, or it might be done from below by crushing the stone, as has been done frequently. If the bladder is cut into, and it is then found that the stone is so large, it is the easiest thing possible to put an instrument in and crush the stone, and take the stone out by pieces.

Q.—Is that the usual practice? A.—It is the usual practice. It has been adopted numbers of times.

Q.—Is it possible to ascertain the size of a stone before you proceed to operate? A.—It is easy; it should be done always.

Q.—It is easy to ascertain the size of a stone in the bladder? A.—Yes, before either cutting or otherwise.

Q.—And it should be done before an operation is commenced? A.—Yes.

Q.—Is it more dangerous to tear the soft parts than to cut them. A.—A great deal more.

A JURYMAN.—Do we understand the witness to say that the stone produced could have been crushed?

The CORONER.—I did not ask him specially as to this stone, but I will do so.

WITNESS.—I should certainly think there would be no difficulty in breaking this up.

Q.—It could be easily crushed? A.—I believe so.

Cross-examined by Mr. PURVES :—

Q.—You know what is called Lloyd's operation? A.—I have just said I was the first to do it in the colony. I did it more than 20 years ago.

Q.—You have performed it yourself? A.—Several times.

Q.—I suppose you have had a large experience as a surgeon? A.—I was eight years in a hospital at home before I came here, and I have been twenty-five years surgeon to the Melbourne Hospital.

Q.—How many times have you performed the operation of lithotomy —the median operation? A.—I suppose I have performed it forty times at least.

Q.—How many times have you performed the particular operation known as Lloyd's? A.—I dare say I have performed Lloyd's operation five-and-twenty times.

Q.—Have you ever had the misfortune to lose a patient? A.—Yes.

Mr. PURVES.—I will read you a description from the *Australian Medical Journal*, of "Lloyd's New Operation for Stone." It is by "W. Gillbee, Esq., Honorary Surgeon to the MelbourneHospital."

Mr. BARKER.—You can get Lloyd's operation described by himself.

The CORONER.—You cannot take it as described by Gillbee.

Mr. PURVES.—Well, I see that Mr. Gillbee quotes Lloyd's own words, which describes the operation as follows :—

"Chloroform having been administered, and the patient tied in the ordinary lithotomy position, a curved staff, with a rather deeper and wider groove than usual, is to be introduced into the bladder, and being taken charge of by an assistant, a metallic speculum ani is to be introduced into the rectum. This last-named instrument differs somewhat from those in general use, its peculiarity consisting in its having a constricted neck, by which its retention within the contracted sphincter is rendered easy. It has also a fissure in its superior surface. This speculum is to be introduced within the rectum, with its aperture turned upward to the front commissure of the gut, and its handle is to be given in charge to an assistant. The angle formed by the junction of the perineum and rectum is to be transfixed and divided with a narrow-bladed scalpel, the knife being pushed, with its edge directed downwards, into the mesial line of the perineum, about half an inch from the verge of the anus, allowed to enter the front wall of the rectum, at about three-quarters of an inch up the gut, and then by a single sweep made to cut its way out downwards into the cavity of the speculum. The next step consists in dissecting upwards and inwards to the membraneous urethra, the operator keeping his left forefinger in the wound and feeling for the staff. Having found the groove in the latter, the finger is to be placed, in order to serve as a guide for the knife, on the anterior border of the prostate, at which point the knife is to be made to enter the groove, and by cutting forwards the division of the whole length of the membraneous urethra may be accomplished. A pair of small straight polypus forceps is next to be passed along the groove in the staff into the neck of the bladder,

ARKER. and the dilatation of the prostatic urethraa ccomplished by gently opening their blades, and then closing and re-opening them several times. During this process, which may occupy perhaps nearly a minute, several gushes of urine will probably escape. The dilatation being effected to such an extent that the forefinger can readily pass, the staff is to be withdrawn, leaving the finger as a guide, upon which a pair of slightly curved extracting forceps may be introduced, with which the stone may be extracted. As a matter of course, the bladder must be examined to ascertain if any other concretions are present, and the usual plan followed of inserting through the wound into the bladder a short gum elastic canula."

This is Lloyd's operation, is it not?

Mr. BARKER.—It is. I do not use the forceps there mentioned.

Q.—You have one of your own? A.—Yes; and there are other surgeons at home who have followed different plans.

Q.—How many times have you performed Lloyd's operation? A.—I say I may have done it about five-and-twenty times.

Q.—How many patients have you lost? A.—I think my average is about one in six. That is a very fair average.

Q.—What has been the most frequent cause of death in your cases? A.—I think I may say that in all it has been peritonitis.

Q.—What is peritonitis? A.—It is inflammation of the lining of the membrane of the peritoneum.

Q.—What is the cause of that disease? A.—It may have resulted, very likely, from the extraction of the stone.

Q.—Do you recognise lithotomy as one of the most dangerous operations known to surgery? A.—I do not.

Q.—Then you consider that one death in six is not a higher average than in the usual run of operations? A.—In amputation of the thigh, the average is about one in three and a-half.

Q.—Is there any other operation from which there is a higher average of deaths than there is from lithotomy? A.—Plenty.

Q.—What others? A.—There is tracheotomy.

Q.—I suppose that the patient in that case is always on the verge of death. Is not one death in five a high average in the ordinary range ot surgical operations? A.—No; it is in certain operations.

Q.—In your opinion, is the presence of a calculus, or of calculi, in the kidney a disease of the kidneys? A.—No, I don't call it a disease of the kidney; and, for this reason: there are plenty of people—I know several gentlemen—who have passed calculi, and enjoyed good health afterwards.

Q.—Then the kidney may have stone in it, and yet be healthy? A.— There may be a little irritation, but it does not follow that there is disease of the kidney. Dr. BARKER

Q.—Have you ever known calculi in the kidney cause death? A.—I have, but there must be other disease with it.

Q.—Then, disease of the kidney caused by inflammation from the presence of calculi is not, in your opinion, a disease sufficient to cause death? A.—No, it is not.

Q.—Would a kidney having calculi in it, like those produced in this case, be prone to inflammation, like a smouldering fire that might be lit up in a moment? A.—No, I don't think so.

Q.—Is pyelitis, or inflammation of the kidney, a disease likely to assume serious proportions after the operation of lithotomy? A.—I have yet to know what were the symptoms from which this man suffered after the operation before I can answer that question.

Q.—You know nothing about it? A.—No.

Q.—Will you describe what appearances the left kidney presented? A.—It was hardly a crimson colour, but it closely approached a crimson colour. The vessels were all injected with blood, and evidently, as far as I could see, it was in an active state of inflammation.

Q.—Do you recognise *Cooper's Surgical Dictionary* as an authority? A.—The edition you hold in your hand is not by Cooper. All the articles have been written by some one else.

Q.—William Coulson is an authority? A.—Yes, he is a very good man.

Q.—Amongst the causes of death after lithotomy in a number of cases in which death occurred he enumerates the following:—Shock, 8; disease of kidneys, 8; peritonitis, 4; cystitis, 4; laceration of bladder or prostate, 4; great size of calculus, 2; from accident, 3. Do you recognise all these—accident, great size of calculus, laceration of bladder or prostate, disease of the kidneys, and shock—as cases which must necessarily be met with in a surgeon's practice? A.—Yes.

Q.—They may be met with? A.—Yes; but what I maintain is, that since that was written, and it was written about 1860 ——"

Mr. PURVES.—This book was published in 1872.

Mr. BARKER.—I can assure you it was published in 1860.

. BARKER. Mr. PURVES.—Chloroform was found out before that?

Mr. BARKER.—What I maintain is, that there have been numbers of cases since in which the lithotrite has been introduced through the cut in the perineum and the stone broken up.

Q.—There are a number of those cases? A.—There are several.

Q.—Where are those cases to be found? A.—I cannot say where, but I know they are to be found.

Q.—Have you seen it done? A.—No, I have not.

Q.—You recognise what I have read as causes of death after lithotomy which may be met by a surgeon in his practice? A.—Yes.

Q.—Can you say how long Berth had disease of the kidney before he died? A.—I should say the disease of the left kidney was quite recent.

Q.—How long had the calculi been in the kidney? A.—They were in the right kidney.

Q.—The kidneys are sympathetic, are they not? A.—No, they are not. You may have inflammation of one kidney, and not of the other.

Q.—Do you mean to say there is no sympathy between the kidneys? A.—Not necessarily.

Q.—But does it exist? A.—It may exist, but not necessarily so.

Q.—How long a time had these stones been in the course of formation? A.—I could not say. They might have been a very short time.

Q.—How long would you say? A.—It might have been two or three weeks.

Q.—Or it might have been two or three years? A.—No.

Q.—At any rate two or three weeks. A.—It might have been. I could not say.

Q.—Supposing chronic inflammation of the kidneys existed would an operation not necessarily tend to increase that inflammation, and augment the disease? A.—Decidedly; but in that case there should be no operation.

The CORONER.—If chronic inflammation of the kidney existed at the time of the operation it would be liable to become acute? A.—Yes.

Mr. PURVES.—Listen to this: "Dr. Humphry," that is the celebrated Cambridge surgeon, "records one case of great interest, in which, although but little force was used, the bladder was ruptured by the

forceps, and the stone escaped through the laceration into the peritoneal cavity." Would that be an accident? Dr. BARK

Mr. BARKER.—That was an accident, but it was just the other way.

Q.—Of course you will draw a distinction, but was it an accident? A.—It might have been from a diseased state of the bladder.

Q.—The bladder was ruptured by the forceps. Suppose there was chronic inflammation of the kidneys, would such an accident as that augment it? A.—Certainly it would.

Q.—Is it possible that such an accident as that could have happened with yourself? A.—Yes, because it might have been from a diseased state of the bladder.

Q.—But apart from a diseased state of the bladder could it have happened? A.—I don't think it could.

Q.—It is not possible? A.—No, I do not think it is.

Q.—Do you consider yourself a more able surgeon and anatomist than Dr. Humphry? A.—I am not an anatomist, but I am a surgeon.

Q.—Are you a better surgeon than Dr. Humphry, of Cambridge? A.—I don't know. I have had a pretty good experience. I was house surgeon to Liston.

Q.—Are you a better surgeon than Dr. Humphry, of Cambridge. A.—I don't know.

Q.—Could this accident have happened with you? A.—I say it should not.

Q.—But could it? A.—When I say it should not, I mean it could not.

Q.—Not such an accident as rupturing the bladder in extracting a stone? A.—It would not.

Q.—Now, in the median operation, after the cut is made and you get into the bladder, what is the next process before you proceed to extract the stone? I mean after you make your incision through into the bladder? A.—But I don't make an incision into the bladder.

Q.—Into the neck of the bladder? A.—Nor into the neck of the bladder.

Q.—Nor to the prostate gland? A.—No.

Q.—Then what do you do? A.—I divide the membraneous portion of the urethra.

Mr. PURVES.—That is exactly what I mean. Having made an orifice by which you can get into the bladder and reach the stone, what is th e

BARKER. next process before you attempt to remove the stone? A.—After removing the membraneous portion, you have got something else to do.

Q.—What have you to do? A.—You must dilate.

Q.—What is dilatation? A.—Dilatation is making an opening. You may use what Lloyd recommends, or what I use, and you dilate at the same time. It gives me a passage for my finger, which I can follow into the bladder.

Q.—Does not dilatation, in ordinary language, mean stretching? A.—Certainly it does, but not tearing.

Q.—You are a lecturer at the University, I believe? A.—Yes.

Q.—Do you believe in Erichsen? A.—Erichsen was my dresser when I was surgeon at a London hospital.

Q.—Do you think he is an authority? Do you use him in lecturing? A.—I do.

Mr. PURVES.—Now listen to what Erichsen says as to dilatation:—

"So, in the median operation, the prostate may be dilated to a considerable extent without opening its capsule. I have used the word 'dilate,' but dilatation appears to me to be an erroneous term. I believe that the prostate is not simply dilated, but partially lacerated."

You say it is never lacerated?

Mr. BARKER.—I never said anything of the kind. I said I would not do it if I could help it.

Mr. PURVES.—Erichsen goes on to say—

"There is an actual laceration of the substance of the prostate, but not extending into or through its capsule. I have often examined the prostate in the dead subject, after it has been subjected to this process of 'dilatation,' and have always found its substance more or less torn."

Do you agree with this description of dilatation?

Mr. BARKER.—Well, as far as I have seen, in any cases in which I have had the opportunity of making a *post mortem* examination, I have not lacerated the prostate. I mean in cases in which I have operated upon the living subject, and the patient has afterwards died.

Mr. PURVES.—Listen to this:—

"Manipulation of the Forceps and Extraction of the Stone.—In the adult, the main difficulty of lithotomy does not lie in entering the bladder, but in the completion of the operation—that for which the operation has been undertaken—the removal of the stone. And the difficulty and danger increase in proportion to the size of the calculus."

Do you agree with this?

Mr. BARKER.—Yes.

Mr. Purves.—This authority goes on to say—

"The tissues between the neck of the bladder and the perineal integuments must either be widely cut or extensively torn and bruised to allow of the passage of a large stone."

Do you agree with this?

Mr. Barker.—Yes, but I say that is not necessarily so.

Mr. Purves.—Erichsen says it is.

Mr. Barker.—But there is another edition of Erichsen's work.

Mr. Purves.—What! Is there a Barker edition, and another edition for the public?

Mr. Barker.—There was one published last year.

Q.—Is the calculus which was extracted in this case a large one? A.—It is.

Q.—Have you ever seen so large a one? A.—Yes.

Q.—Where? A.—There was a much larger one removed at Geelong.

Q.—Was not that after death? A.—There was one removed after death, but there was a much larger one than the one in this case removed while the patient was living.

Mr. Purves.—Erichsen, speaking of the obstacles in the way of the success of the median operation, says—

"The third, the deepest and most important, is situated at the neck of the bladder. We find here a narrow tense ring beyond the prostate; and this bar remains intact in spite of the dilatation and laceration to which the prostate has been subjected. On introducing the finger, we shall feel it grasped tightly by this ring. The inner ring of the neck of the bladder cannot be dilated beyond a certain point. I have found, by experiments on the dead subject, that it cannot be expanded to a size more than sufficient to extract a calculus of one inch in diameter without laceration or incision. The existence of this ring is the greatest barrier to the extraction of the stone, and its laceration or rupture is well known as one of the most dangerous and fatal accidents in lithotomy."

Do you admit there may be dangerous and fatal accidents?

Mr. Barker.—From rupture I certainly do.

Mr. Purves.—Further—

"It is in consequence of the obstacle offered by this that the median operation is not available for the extraction of large calculi. A calculus, for instance, two inches in diameter, cannot be extracted without the employment of great violence."

Do you agree with that?

Mr. Barker.—Yes.

Mr. Purves.—Do you agree with this?—

"Where we have to do with a stone of large size, the median is not, in my opinion, safe; such an amount of traction must be used as will infallibly bruise and lacerate the neck and base of the bladder."

Dr. BARKER. Mr. BARKER.—I disagree with Mr. Erichsen, because I believe you can take out a larger stone by the median operation—by Lloyd's operation—than you can by the lateral.

By the CORONER.—That is only your opinion? A.—That is my opinion.

By Mr. PURVES.—How can you determine the size of a stone in the bladder? A.—In the first place, you can tell it pretty well by the "sound;" but if you cannot determine it in that way, you can always introduce an instrument by which you can measure it.

By the CORONER.—There is an instrument by which you can measure a stone in the bladder? A.—Yes.

By Mr. PURVES.—Do you mean to say that is infallible? A.—Yes.

Q.—Absolutely. A.—Absolutely infallible.

Q.—If the text-writers say that the difficulty of lithotomy is intensified where the stone is of unusual size, what do you say to that? A.—I say you should break the stone.

Q.—Did you ever perform an operation in your life in which you were mistaken in your prognosis?

Mr. BARKER.—About the bladder?

Mr. PURVES.—About anything? A.—Oh, yes.

Q.—Is it as easy to detect stone in the bladder as to detect an ovarian tumour? A.—I say you should never operate for stone till you detect one; but with an ovarian tumour you may be deceived from many causes. They are two different things altogether.

Q.—Are there any tests by which you can determine whether a patient is suffering from ovarian tumour? Have you ever operated for it, and found out your mistake afterwards? A.—I have.

Q.—Have you ever made a mistake in judging the size of a stone? A.—I don't know that I have.

Q.—Have you? A.—I say I don't know that I have.

Q.—Do you say you never have? A.—I say that I never operated without detecting a stone.

Q.—Have you ever made a mistake in the estimate you have formed of the size of a stone in the bladder? A.—No, not where I have measured it.

Q.—Have you ever performed operations without measuring? A.—Certainly I have.

Q.—Then you have operated for stone in the bladder without

measuring the stone before you operated? A.—Yes, but I felt convinced they were small stones. I could tell by the "sound" as well as possible. Dr. BARKER.

Q.—Is it possible for a surgeon to operate for stone and find no stone at all? A.—It has been done.

Q.—And by qualified surgeons? A.—Well, qualified surgeons if you like to call them so, but I should not call them qualified.

Q.—By surgeons? A.—Yes, by surgeons.

Q.—Do you remember the case in which Mr. Wakley, the Coroner of Middlesex, operated for stone and found none? A.—I know that Mr. Cooper brought an action against Mr. Wakley for what he said, but I never heard of Wakley's operation.

Q.—An operation by Wakley, junior? A.—I have not heard of that.

Q.—Do you know anything about any other means than the forceps for removing stones from the bladder? A.—There is such a thing as a scoop for small stones.

Q.—Do you know of a landing net? A.—No, I don't.

Q.—Do you recognise *Braithwaite's Retrospect of Medicine* as an authority? A.—Yes, but who is the writer of the article to which you are referring?

Mr. PURVES.—"Richard Davy, Esq., surgeon to the Westminster Hospital." Do you recognise him as an authority?

Mr. BARKER.—No.

Mr. PURVES.—Just listen to this:—

"During the operation of lithotomy, I have often been hurt to see a stone crushed by removal by the forceps (and thereby a specimen lost), or have waited expectantly to see fragments removed by the scoop; so I venture to suggest that we may gain a wrinkle from fishermen, and use a net for extractive purposes. The net (of silk or canvas, according to the size of the stones) is made to slide on a curved wire, bent on the principle of midwifery forceps. After the cut has been made into the bladder, the net is introduced through the wound to the side of the stone or fragments; and, by gently tickling the stone and manipulating the net, the stone or fragments (coaxed in) are caught on withdrawal. These stones, plus silk, are the occupants of the perineal wound instead of stone plus forceps or scoop. From the dead bladder I have removed stones fifty times by the net."

He beats you by ten operations.

Mr. BARKER.—On the dead subject, where the stones have been put in.

Q.—It would be easier to pull out a stone which had been put in than a stone which was originally there? A.—Decidedly so.

r. BARKER. Q.—Do you know what lithotrites there are at the Melbourne Hospital? A.—No. I always took my own instruments when I did any operation.

Q.—Have you any objection to look at another man's instruments? A.—No.

Q.—Is this a lithotrite? A.—Yes; it is a French one, I believe.

Mr. PURVES.—It happens to be a London one, made by Evans and Wormull.

Q.—Is this what you would use to crush this stone with? A.—No.

Q.—What would you use? A.—I would use a much more powerful instrument.

Q.—Where would you get it? A.—There are plenty of lithotrites stronger than that. I think I have got three.

Q.—Is there a stronger one in the hospital? A.—I believe so.

Q.—Have you seen it? A.—I have seen several in the hospital?

Q.—Have you seen any stronger ones than this? A.—Yes, I have.

Q.—Stronger in what sense—more powerful? A.—A great deal more powerful.

Q.—Would this instrument be the sort of one that you would take to crush this stone with? A.—Certainly not; because I should take a stronger instrument.

Q.—They are made to scale, are they not? A.—Oh, I know.

Q.—You know what? A.—I know how they are made. I don't want to look at the instrument.

Q.—What is the scale, if you know all about it? A.—Those are copied from the French, and they are made in tenths.

Mr. PURVES.—This happens to be made in sixths.

Mr. BARKER.—Well, it does not signify whether it is in tenths or in sixths.

Q.—How much is the measurement of the whole scale? A.—Not more than an inch and a quarter.

Q.—Then this is the gauge which (like the steam gauge of a boiler) indicates the crushing capacity of the instrument? A.—No. It indicates the size of the stone.

Q.—It is gauged up to an inch and a quarter, and it would not be applicable for stones of a larger size. Do you say the stone extracted from the man Berth could be easily crushed. A.—Yes, I believe it could be easily.

Q.—Is there any distinction between the external portion of the stone and the centre of it? A.—It is impossible to say.

Q.—What is its weight? A.—I cannot tell you; it may be five ounces, or it may be more.

Q.—Would this lithotrite crush the stone? A.—I have already told you it would not; but it does not signify, because, if it will not crush it, there are others which will.

Q.—How long would it take to crush this stone? A.—I could not say. It is impossible to say how long it would take. It might take a minute; it might, perhaps, take two or three minutes.

Q.—I must ask you again, how many years have you been connected with the Melbourne Hospital? A.—Nearly twenty-five years.

Q.—Have you an intimate knowledge of the stock of instruments at the hospital? A.—I know pretty well what are there.

The CORONER.—Do I understand that at all events a few minutes would be sufficient time for crushing this stone? A.—A few minutes would be quite sufficient.

By Mr. PURVES.—How many instruments are there in the stock of the Melbourne Hospital stronger than this? A.—I should say there are three at least, or four. I think there are six lithotrites in the Hospital.

The CORONER.—You had better examine the officer of the hospital who has charge of the instruments for information as to the number.

Q.—Have you got any lithotrites? A.—Yes.

Q.—Here? A.—No.

Q.—Do you recognise that in surgery you are to use your best judgment on any critical juncture? A.—Certainly, you must do that. You must act for the best.

Q.—You also recognise the fact that in surgical operations exceptional circumstances may occasionally arise which will force you to act on the spur of the moment? A.—Yes.

Q.—These lithotrites are all so constructed that they can be passed through the penis into the bladder? A.—Yes, they must be so.

Q.—Do I understand you to mean that all the lithotrites you have are also applicable to the purpose of being passed through the penis into the bladder? A.—Certainly; otherwise, what would be the use of them?

BARKER. Q.—Do you say there are lithotrites which could be passed through the penis into the bladder to break this stone in three minutes? A.—Yes, I do.

Q.—Passed through the penis? A.—Yes.

Q.—And you have got a number of them? A.—I say I have got one that would do it, but I have got other lithotrites.

Q.—In Lloyd's operation, what cut is there into the rectum? A.—The first incision should go into the rectum.

Q.—When the stone is being brought out of the bladder, would the cut in the rectum necessarily be distended if it was a large stone? A.—If it was a large stone it might be distended.

Q.—The effect of distending the cut in the rectum would be to open it up in a triangular fashion? A.—You have got first to pull it through the prostate.

Mr. PURVES.—But I am not pulling it through the prostate.

Mr. BARKER.—You could not get it out of the rectum without. If you can get it through the prostate without laceration you will not require to tear it.

The CORONER.—The question is whether, in the extraction of a large stone, the cut in the rectum would be dilated in its passage? A.—I think it would be very little.

Mr. PURVES.—Surely that is dependent upon the size of the stone? A.—It would depend upon the size of the stone.

Q.—In the extraction of a stone from one of the size of a marble up to one of the size of this stone, is it not necessary to use great force? A.—No, it is not necessary to use great force; in fact, one is always cautioned not to use great force.

Q.—Would this one require great force? A.—It just depended what the age of the patient might be.

Q.—Well, a patient forty years of age? A.—It just depends upon how the stone was seized. If you seized it that way (the broad way) it would require great force; if you seized it in this way (the long way) it would not. It has to be seized in that way (the broad way), as you can see by the forceps.

The CORONER.—It is not necessary to use great force in abstracting a stone—it should not be done? A.—It should not be done.

Mr. PURVES.—Will you deny that some amount of traction must be used in extracting a stone from the bladder? A.—I don't believe in that at all.

Mr. PURVES.—Just listen to this, from *A System of Surgery*, edited by Dr. BARR Holmes:—

"The extraction of the stone is attended with more hazard to the gland. In this step of the operation, time must be given for the parts that embrace the stone to dilate; the muscular structure at the neck of the bladder, the firm substance of the prostate gland, and the deep fascia, will each stretch and yield to the sustained efforts of a firm but gentle hand. The gland is sometimes injured in withdrawing the stone by the forceps embracing a portion of it and tearing it away from the body. This may be avoided by passing the finger below the forceps, and disengaging the gland from the forceps after the stone is seized. A nervous or a violent operator, feeling some resistance to his efforts at extraction, redoubles them, until he finds the stone obeying the force he employs; and the operator, in ignorance of what he is doing, drags the gland before the stone, separates it from its attachment to the deep fascia, and brings it nearly to the external aperture before his efforts succeed. The consequence of such an injurious proceeding is to bruise the gland, to cause it to slough, and to render infiltration of urine almost inevitable, by the laceration of the deep prostatic connections."

Mr. BARKER.—I should expect that.

Q.—Every surgeon has not the calmness and the firm hand of yourself, I suppose? A.—I don't know.

Q.—Is it possible for a surgeon to do this damage? A.—It is not generally. I should say no person is a surgeon who would do it.

Q.—But this authority calls himself so? A.—I don't care about that.

Q.—In your opinion the suprapubic operation should be adopted? A.—I did not say it should be adopted.

Q.—Well, having made the incision, and having dilated all the parts, and seized the stone, would you then, if you found the stone too large, adopt the suprapubic operation? A.—No, but I should break up the stone; and that is what ought to have been done.

Q.—You say it is the easiest thing possible to put in an instrument and crush the stone. A.—It would be if you had the instrument.

Q.—How long would you wait for such an instrument in such an operation; until it was being made? A.—No.

Q.—How long? A.—I would expect to have the instrument in the room at the time.

Q.—You would expect them to be in the hospital stock? A.—I should expect them to be in the operating room at the time.

Q.—Would you expect them to be in the hospital stock. A.—Certainly I should.

Q.—And suppose you were conducting an operation and you asked for this stone-crusher, and it was not there, what would you do? A.—Send and get one.

ARKER. Q.—How long would you wait with the patient under chloroform? A.—If he waited half-an-hour it would be nothing.

Q.—Would an hour be anything? A.—I do not know that an hour would signify.

Q.—Then the length of time an operation takes has no bad effect upon the patient? A.—I say keeping the man under chloroform; I don't say the operation.

Q.—Keeping the patient under chloroform would have no ill effect upon him. A.—No.

Q.—Could you keep a patient an indefinite time under chloroform? A.—You could keep a patient a couple of hours under it without him being injured by the chloroform.

Q.—If he was a weak, spare man? A.—Yes, that would not make much difference.

Q.—How long does it take you, as an experienced surgeon, to conduct the median operation from beginning to end? A.—I think it very long if I am three minutes.

Q.—What? A.—You may look. I consider it very long if I am three minutes.

Q.—Over the whole operation? A.—Over the whole operation.

Q.—I thought you would take three minutes merely to crush the stone? A.—Three minutes is a long time for the whole operation.

Q.—How long do you take to dilate the parts? A.—I don't take many seconds to dilate the parts.

Q.—Then you would tear them roughly asunder? A.—I would not. I do not tear them at all.

The CORONER.—That is an ordinary operation? A.—You are speaking of an ordinary operation.

Mr. PURVES.—Do you think it an advantage to be only three minutes? A.—I do.

Q.—A great advantage? A.—The sooner you can get over an operation the better.

Q.—How can you reconcile that with the statement that you would think nothing of keeping a patient half-an-hour under chloroform? A.—No more I would if circumstances required it.

Q.—Have you seen any other gentlemen who are to attend this inquest to-day? A.—I have seen Dr. Williams, I know. He was pre-

sent at the *post mortem*, and he came up when we examined the parts more minutely at my house.

Q.—You have had a consultation at your house? A.—No, we had not a consultation.

Q.—Who was present? A.—Dr. Williams, Dr. Neild, and myself.

Q.—Did you communicate the fact that you were going to have this private conference at your house to Dr. Beaney? A.—No. I asked Mr. Beaney, before we left the morgue, if he wanted to see any more, and he said "No."

Q.—That was at the time that the *post mortem* was made? A.—At the time; and he knew I was going to take the parts away.

Q.—Did he know you were going to have this secret conference at your house? A.—It was no secret conference.

Q.—Did you tell Dr. Beaney you were going to have this meeting at your house? A.—I did not.

Q.—Who else was there? A.—I have mentioned all three—Dr. Williams, Dr. Neild, and myself.

Q.—Have you seen anybody else with reference to the case. A.—I have not.

Q.—Did you go to any witnesses yesterday? A.—I did not.

Q.—Have you seen any other persons who are to be witnesses in this case? A.—This meeting took place last evening. Dr. Annand was by, but that was all. We were only drawing up the *post mortem* appearances, and nothing else.

Q.—How long did this affair occupy? A.—It may have taken from half-an-hour to three-quarters of an hour.

Q.—Did you talk over what you were going to say? A.—No; we only talked over the *post mortem* appearances.

Q.—Have you ever given any instruction, by yourself or in company with another—directly or indirectly—to take legal proceedings against Dr. Beaney? A.—I have not.

Q.—With reference to the election of honorary surgeons for the hospital? A.—That has nothing to do with this case.

Q.—I ask you the fact? A.—I shall not answer you.

Q.—That has nothing to do with this case? A.—You have got your answer.

Q.—What description of calculus do you call the one which was extracted from the man Berth? A.—I believe it is a triple phosphate.

BARKER. Q.—What is the hardest calculus known? A.—I believe a mulberry calculus is.

Q.—What deposit is that? A.—A great deal of uric acid.

Q.—Then uric acid calculi are harder than phosphates? A.—Yes, certainly.

Q.—Have you ever seen phosphates that were mixed—part hard and part soft? A.—Yes.

Q.—The outside softer than the inside? A.—Yes.

Q.—From your great experience can you say how many years this calculus had, in all probability, been in the course of formation? A.—It might have been very rapidly formed, or it might have been a very long time.

Q.—Might it have been ten years? A.—It might have been.

Q.—Suppose this calculus was built up in the course of ten years, would not the interior be materially firmer and harder than any of the exterior portion? A.—Yes, but that would not prevent its being broken up.

Q.—It would increase the difficulty and danger of breaking it? A.—No, it would not.

Q.—Not the fact of it being hard? A.—Parts of it would be so soft that you could easily break it down, and so diminish the size of it.

Q.—Have you seen Dr. Gillbee operate for calculus? A.—I have.

Q.—What is the largest one you have seen? A.—I cannot say.

Q.—Have you seen him remove one of uncommon size? A.—I don't know that I have.

Q.—Do you know that you have not. A.—I don't say I have not.

Q.—Have you seen him remove one of more than two inches in diameter? A.—I cannot say I have.

Mr. PURVES.—Listen to this:—

"Diseases of the kidney are generally regarded as belonging to the physician, but I need hardly add that to the surgeon a thorough knowledge of renal pathology is as requisite as it is to the medical practitioner; for, without such knowledge, he will be unable to recognise the different conditions of the urine with its deposits, and to appreciate their significance."

Do you agree with this?

Mr. BARKER.—Yes.

Mr. PURVES proceeded—

"He will also be unfit to decide upon the propriety of an operation of expediency, or to understand the risks of one of necessity; for the existence of kidney disease, as a

rule, is enough to debar the surgeon from performing any operation other than that required to save life, and in such operations it renders the prognosis most unfavourable, since it is well known that the chief cause of death after operations is kidney disease, and the worst forms of the disease are undoubtedly directly due to calculus affections, to vesical and urethral mischief." Dr. BARKER

Do you agree with this?

Mr. BARKER.—I do.

Mr. PURVES.—Do you agree with this?—

"Stone in the kidney is not an uncommon affection. It is generally a painful one, and is often fatal."

Mr. BARKER.—I don't know that it is often fatal; it is a painful affection.

GEORGE ANNAND, Resident Surgeon at the Melbourne Hospital, examined— Dr. ANNAND

By the CORONER—

Q.—Can you identify the deceased? A.—Yes, by the wound at the operation.

Q.—What was his name? A.—Robert Berth.

Q.—His age? A.—Forty-one years.

Q.—What was he? A.—I don't know.

Q.—Was he a patient in the Melbourne Hospital? A.—Yes.

Q.—Whom was he under? A.—He was under the care of Mr. Beaney, honorary surgeon.

Q.—What was he suffering from? A.—Stone in the bladder.

Q.—What sort of health was he in? A.—He was in tolerable health. He suffered pain from the stone, especially in walking.

Q.—Was it proposed to operate on him? A.—When Mr. Beaney saw him he said he would operate on him on the next operating day.

Q.—When was that? A.—Mr. Beaney saw him on Tuesday, the 30th of November, and he operated on the following Thursday, the 2nd of December.

Q.—Did he examine him when he saw him on the Tuesday? A.—Yes; he passed a sound into the bladder.

Q.—Did he say anything about the stone? A.—No; he simply said he would operate on Thursday, the operating day.

Q.—Was there no consultation? A.—No.

Q.—Was there none called? A.—No.

ANNAND. Q.—Whose duty is it to call one? A.—It is the honorary surgeon's duty to give directions for the calling of a consultation if he wishes for one.

Q.—Is it not imperative, according to the rules of the hospital, that there shall be a consultation before operation? A.—It is.

Q.—Do not the rules direct who shall call the consultation?

Mr. PURVES.—You had better have the rules produced if you want them.

The CORONER.—Very well, we will get the rules, which will speak for themselves.

Q.—Was the operation done on the day appointed? A.—Yes.

Q.—Who were present? A.—Being engaged in assisting, I did not notice all who were present. I know the names of some, but there were a great number of persons there whom I cannot remember.

Q.—The operation took place in the presence of a number of persons? A.—Yes.

Q.—Who assisted at the operation? A.—Mr. Webb, one of the assistant honorary surgeons of the hospital.

Q.—Were any of the honorary surgeons there besides Mr. Beaney? A.—No.

Q.—Chloroform was given to the patient, I suppose? A.—Chloroform was administered by the resident physician, Dr. Lewellin.

Q.—How long did the operation take? A.—About an hour and a half.

Q.—Was much force used in extracting the stone? A.—Yes, very considerable force.

Q.—Was it used by Mr. Beaney exclusively? A.—No; Mr. Beaney and Mr. Webb together levered the stone out.

Q.—How do you mean levered it out? A.—One had a lever above the stone, and the other had a lever below it; and they levered it out.

[The instruments used were here produced.]

Q.—Are these the instruments? A.—Yes; one is an ordinary scoop, and the other a spring scoop.

Q.—Did they use the soft parts as a fulcrum? A.—Of course they pressed against the pelvic bones, and the soft parts which yielded.

Q.—How long was this going on? A.—It was going on all the time, till the stone came out. First, attempts were made to draw it out with the forceps and with the scoop alone, before the two levers were used,

and finally the two levers—the ordinary scoop and the spring scoop— were employed. Dr. ANN

Q.—What length of time did the extraction of the stone occupy? A.—Over an hour.

Q.—When the difficulties arose as to the size of the stone, was there any consultation held as to what should be done? A.—No; suggestions were made, but Mr. Beaney did not consult with anyone.

Q.—What suggestion was made? A.—A suggestion that the stone should be crushed and extracted piecemeal.

Q.—By whom was that suggestion made? A.—By Dr. Moloney and Dr. Webb.

Q.—Did Mr. Beaney refuse to crush the stone? A.—Yes.

Q.—Did he say he would not do it? A.—He said he would like to get it out whole.

Q.—You had charge of the patient after the operation? A.—Yes.

Q.—What happened to him? Did he recover from the shock? A.—For the first thirty-six hours he went on very well; but on the night of the 4th, symptoms of peritonitis set in.

Q.—Did he sink from that time? A.—He sank from that time rapidly, and died on the 5th.

Cross-examined by Mr. PURVES:—

Q.—Do you know where this man came from? A.—From Amherst, I believe.

Q.—Do you know whether he had been in the hospital at Amherst? A.—I believe he had been in that hospital for eighteen months. I think that was the time he stated.

Q.—Do you know what for? A.—For stone in the bladder.

Q.—Do you know how many years he had been suffering from that disease? A.—Yes; three years.

The CORONER.—That was his statement? A.—Yes.

Mr. PURVES.—When he was admitted into the Melbourne Hospital, what condition was he in? A.—He was not a stout man, but he was in tolerable condition.

Q.—Was he not reduced? A.—He was a thin man, but he was not what you would call emaciated.

Q.—How long was he in the hospital before Dr. Beaney saw him? A.—Four days.

NAND. Q.—You say he suffered great pain? A.—On walking.

Q.—When Dr. Beaney said he would operate on him, did he direct you to do anything? A.—No, he gave no directions.

Q.—Is it not your business to prepare patients for operation? A.—Yes. It is also the business of the honorary surgeon to give any directions as to what he wishes done to the patients before operating.

The CORONER.—You act under the direction of the honorary surgeon? A.—Yes; the case is entirely in his hands. I merely act under his directions.

Mr. PURVES.—Is it proper, before the operation of lithotomy, to clear out the rectum? A.—Yes, it is.

The CORONER.—Was it done in this case? A.—I ordered that the patient should have an injection.

Mr. PURVES.—Whom did you order. A.—The wardsman.

Q.—What is his name? A.—M'Cann.

Q.—Did you take any steps to see that your order was carried out? A.—It is not necessary in the Melbourne Hospital. The wardsman told me that the reason he did not do it was because he had the materials prepared for the injection, but the man's bowels operated very freely, without using the injection.

Q.—Have you heard that the injection was not given? A.—I have heard since that it was not.

Q.—Before the operation did you take any steps to ascertain whether it had been done? A.—I did not, because I did not consider it necessary.

The CORONER.—The man's bowels were freely open? A.—They were freely open on the day of the operation, and twice the day before. The stools that appeared in the rectum had three days to come down after the operation before the man died.

Q.—Did you inform Dr. Beaney that the patient's bowels had operated naturally, and that no injection had been given? A.—I did not know it at the time.

Q.—You say there was no consultation? A.—No.

Q.—Do you know whether Dr. Beaney sent notice to the other honorary surgeons that he was about to perform the operation? A.—He directed me to send out notices of the operation, but he said nothing about a consultation.

Q.—Did you send out notices of the operation? A.—Yes, I sent notice to the four honorary surgeons—Mr. James, Mr. Fitzgerald, Mr. Howitt, and Mr. Beaney himself.

Q.—Did any of the other three attend? A.—No; I have stated so already.

Q.—Then with whom was Mr. Beaney to consult? A.—Notices of consultation are altogether distinct from notices of operation. They are printed on different cards.

A JURYMAN.—Is it usual to have consultations?

The CORONER.—The rule of the hospital is distinct upon the subject. It says that no important operation shall be performed, except on an emergency, without a consultation,

A JURYMAN.—That may be the rule, but the rule may not always be observed.

Cross-examination continued—

Q.—How long have you been at the Melbourne Hospital? A.—Nearly three years.

Q.—Do you mean to tell the jury that the rules of the hospital are never broken in any case? A.—I do not suppose there are any rules which are not broken, neither there nor anywhere else.

Q.—Are consultations for simple operations necessary? A.—What do you mean by a simple operation?

Q.—Cutting a man's leg off, for instance? A.—Absolutely necessary.

Q.—And there are always consultations? A.—As far as I know there are.

Q.—In every case? A.—Except in cases of emergency, which do not admit of delay.

The CORONER.—They are always called, at all events? A.—Yes.

Mr. PURVES.—Why did you not call a consultation in this case? A.—Because I did not receive any directions from the honorary surgeon.

Q.—May I ask, are you inimical to Dr. Beaney? A.—I don't know that I am.

Q.—Dr. Beaney has not been long at the hospital? A.—He has been there three or four months.

Q.—Did you tell Dr. Beaney about this inflexible rule? A.—He knows the rules very well.

Q.—Did you call attention to it when he told you to send out the notices of operation? A.—It was not my duty?

Dr. ANNAND. Q.—Then you only do your duty? A.—That is all.

Q.—Have you ever sent out notices without being specially told to do so? A.—No, I have never done so.

Q.—Have you known notices sent and no attention being paid to them by the honorary surgeons? A.—Do you mean by the whole of the honorary surgeons, or by some of them?

Q.—By some? A.—Yes.

Q.—Is it not a fact that this patient was sent down specially from the Amherst Hospital to be operated on for stone? A.—He was sent into the Melbourne Hospital by Dr. Webb for operation.

Q.—Specially for operation for stone? A.—Yes.

Q.—Well then, why should there be a consultation if he was sent into the hospital to be operated upon for stone—if the operation was determined upon before he came there? A.—He was sent in by Dr. Webb, to be cut for stone.

Q.—You say the patient improved after the operation? A.—I say he went on well.

Q.—When symptoms of peritonitis showed themselves, it was your business to meet them? A.—Yes, I am in charge in the absence of Mr. Beaney.

Q.—You did take steps to meet the peritonitis? A.—I did.

Q.—Did Dr. Beaney see the patient? A.—He saw him the morning after the operation. The patient had no symptoms of peritonitis then. Mr. Beaney saw him again on the afternoon of the 5th, and then the peritonitis was well marked.

Q.—What did he die of? A.—The symptoms he had were——

Q.—Tell me what he died of first, and describe the symptoms afterwards? A.—I can only give my opinion from the symptoms.

Q.—Tell me your opinion first, and the symptoms afterwards. What did the man die of? A.—Peritonitis.

Q.—Can you detect the disease called "surgical kidney" by any symptoms? A.—I don't know that I could unless the symptoms were very well marked.

Q.—If this man had diseased kidney, or diseased kidneys, could you detect it? A.—Do you mean surgical disease?

Q.—Surgical disease of the kidney? A.—No, I could not.

Q.—You arrive at the verdict of peritonitis from external symptoms? A.—From symptoms during life and immediately preceding death.

Q.—If you were told that one kidney was in a violent state of inflammation—congested throughout all its tissues—would that affect your verdict in any way? A.—I should then say that he died of peritonitis and inflammation of the kidneys.

Q.—Is not an operation on a patient who has a diseased kidney, or a tendency to diseased kidney, almost equivalent to the operation of stirring the fire? A.—Yes.

Q.—You say you were standing by, helping at the operation? A.—I was at hand to give any assistance required.

Q.—And to do as little as you possibly could, compatible with your duty? A.—Mr. Webb was there to assist the operator.

Q.—How do you fix the time that the operation lasted at an hour and a half? A.—I said about an hour and a half. I give the time approximately.

Q.—How many operations were performed that afternoon. A.—Two.

Q.—Did the other precede this one? A.—Yes.

Q.—What operation was it? A.—It commenced in excision of the knee-joint, and ended in amputation of the thigh.

Q.—By whom was that operation performed? A.—Mr. Beaney.

Q.—Did he kill that man? A.—The patient was a woman, and she is still alive.

Q.—How long did that operation take? A.—About an hour, but I did not time it.

Q.—What time did the operations begin? A.—The first was commenced about three o'clock.

Q.—And what time were they finished? A.—About half-past five.

Q.—Are you sure that the operation for amputation of the thigh did not take longer than an hour? A.—I am only saying what my opinion is. I did not time the operation.

Q.—How long did the administration of chloroform take—in the first place? A.—I could not say exactly. The chloroformist will tell you.

Q.—About how long? A.—I suppose it took about ten minutes.

Q.—And in the second operation, how long did it take? A.—About five minutes.

Q.—You say a suggestion was made to crush the stone? A.—Yes.

Q.—Have you got the instrument here that was brought to Dr. Beaney? A.—It is here.

ANNAND. Q.—Is this the one with the key? A.—Yes, I believe that is it. All the instruments were at hand in the instrument-room, adjoining the operating theatre.

Q.—Do you see a scale on this one? A.—Yes.

Q.—How many lithotrites are there at the hospital? A.—I have not charge of the instruments and cannot tell you.

Q.—How many were at hand? A.—The whole stock were in the adjoining room.

Q.—Was any other lithotrite than this brought? A.—There were three brought, and all the lithotrites were at hand.

Q.—Were they all of this shape? A.—I cannot say.

Q.—Were they all such lithotrites as are introduced through the penis into the bladder? A.—Lithotrites are always introduced into the penis.

Mr. PURVES.—I beg to differ from you.

The CORONER.—Was this one given to Mr. Beaney? A.—It was offered to him by Dr. Webb.

Q.—Do you know M. Civiale, the celebrated French operator? A.—I have heard of him.

Mr. PURVES.—Well, Civiale describes an instrument which has been invented like an ordinary lithotomy forceps with a screw drill running down the centre. Now is there any such crushing instrument as that in the Melbourne Hospital? A.—Not that I know of. I have not charge of the instruments.

Q.—Do you mean to say that this toy of a thing (the one handed to Mr. Beaney during the operation) is applicable for crushing a calculus of large size in the bladder? A.—You can never tell until you make the attempt.

Q.—M. Civiale recommends that it should be like a forceps? A.—I have not seen that instrument.

Q.—How long had the patient been under chloroform at the time that the proposition about crushing the stone was made? A.—I should think half-an-hour.

Q.—Was not the stone fully in sight—could you not touch it? A.—Yes, when it was drawn up with the forceps.

Q.—Did not the obstruction to the removal of the stone arise from the fact that it was caught at the pubis? A.—I cannot say; I was not trying to draw it out myself.

Q.—To use a vulgar expression, was it not pulled up, and did it not slip away? A.—It slipped a great many times.

Dr. ANNAN

Q.—Did not Mr. Beaney succeed in drawing it up to the mouth of the wound? and did it not then slip back again? A.—Yes; he never could get it right out.

Q.—Was it after the stone had constantly slipped that the scoop was used? A.—Yes, the single scoop was tried.

Q.—Did Dr. Beaney succeed in crushing a portion of the stone with the forceps? A.—A portion of the soft outside.

Q.—He succeeded in breaking that off? A.—A great deal of *debris* came away.

Q.—He crushed it with the forceps to a certain extent? A.—To a certain extent.

Q.—Do you recognise it as a fact in practical surgery that uncommon incidents may arise in the course of an operation which may render it requisite for you to act on the spur of the moment, and use your best judgment? A.—Certainly that is the case.

Q.—Then there are exceptional circumstances which must be weighed in an operation? A.—Yes; one must be prepared for emergencies.

Q.—The successful surgeon is the one who is the lucky one? A.—The one who is prepared for an emergency.

Q.—I suppose you will not attempt to deny that Dr. Beaney, as a rule, uses his best endeavours to show off his skill? A.—I have no doubt he always used his best endeavours to show off his skill.

Q.—You will not attempt to deny that he is a man of considerable ability as a surgeon? A.—I don't know whether I ought to express an opinion about his ability. I don't think it is a fair question.

Q.—You will not deny that he is a capable surgeon? A.—I do not know whether I ought to offer an opinion upon that. If the coroner thinks I should answer the question, I will answer it.

The CORONER.—I don't think so.

Mr. PURVES.—Was there not a considerable amount of talking, during the operation, amongst the spectators? A.—Yes, in a subdued tone of voice.

Q.—Dr. Webb and Dr. Moloney are juniors to Dr. Beaney? A.—Dr. Moloney is not a junior.

Q.—In the profession? A.—He has not been so long in the profession, but he has been as long in the Hospital.

Q.—He is a very young man, is he not—just beginning life? A.—He has been qualified for nine or ten years.

. ANNAND. Q.—That is nothing for a surgeon. Mr. Beaney has been many years longer in practice than your young gentleman, has he not? A.—Yes.

Q.—Dr. Neild says:—"The small intestines contained bilious chyle and soft stools. The large intestine contained grey hard stools." Is that consistent with what you have stated? Do you mean to say that there could be grey hard stools in the large intestine between the time of the operation and the time of death? A.—Yes, because the man had three days' rest after the operation before he died; and therefore, there was plenty of time for the fæces to come down from the upper part of the intestines.

Q.—Were you present with Dr. Beaney in the dead-house on the day preceding the operation? A.—I cannot say whether it was on the day preceding, but I was there shortly before the operation.

Q.—You went with Dr. Beaney to the dead-house? A.—Yes.

Q.—Who else was there? A.—There were some students; but I don't remember who they were.

Q.—Was there a body in the dead-house? A.—Yes.

Q.—Did you see Dr. Beaney do anything there? A.—Yes, he practised some operation on the dead body.

Q.—Did he not practise this very operation? A.—No.

Q.—Well, what operation did he perform? A.—He told me it was the medio bi-lateral operation.

Q.—It was an operation for stone? A.—Cutting for stone.

Q.—Is this the staff that is passed through the penis into the bladder? A.—Yes.

Q.—Did he use this knife or a knife similar to this on the dead subject? A.—Yes.

Q.—Is not the object of this to get into the groove and move along, and so cut the prostate with each blade of this double-bladed knife, the object being to enable you to dilate the prostate? Did not Dr. Beaney rehearse this on the dead subject? A.—Yes.

Q.—Did he not practise an operation of lithotomy having in view the fact that he was going to operate on Berth? A.—Yes.

The CORONER.—Did he do the same operation? A.—Not the same one.

Mr. PURVES.—An operation for stone? A.—Yes.

Q.—How many bodies did he practise on? A.—Two.

Q.—Did he point out that the space applicable for the extraction of the stone in the median operation was not exceeded by the space he obtained by the adoption of the bi-lateral operation? A.—No, the other way. He said that it gave him more space. Dr. ANNAND.

Q.—Are you sure of that? A.—I understood him so.

Q.—Did he not say exactly the opposite? A.—I think not.

Q.—Did he say the bi-lateral gave more space? A.—Yes.

Q.—Did he not say it had been said to give more space, but he found there was no substantial difference? And did he not ask the students to place their fingers in the cut he made in order to test that very question? Did not you put your own finger in? A.—Yes.

Q.—Was it not to test the amount of space obtained by the operation? A.—Yes.

The CORONER.—What did he say? A.—He pointed out that he got more space that way.

Mr. PURVES.—Did he not say it was said more space was got that way? A.—Yes. He told us that he thought that, by dilatation with his finger, he would be able to produce as large an opening by one operation as by the other. That is my version of it.

Q.—Were not some of the students who were present while the experiments were being tried on the dead bodies, also present during the actual operation on the man Berth? A.—I believe so, but I am not certain.

Q.—Was not this a preliminary canter? A.—It was practising for the operation on the next day.

Q.—There is no rule of the Hospital rendering it imperative for an honorary surgeon to rehearse an operation before he performs it? A.—No.

Q.—Well, seeing there was no rule to compel this rehearsal, and seeing that it was done, was it not done in the interest of the patient? A.—It was rehearsing for the operation.

By the CORONER—

Q.—Did you make any note in the case-book of the stone extracted from the man Berth? A.—The dresser did.

Q.—Who has charge of the case-book? A.—One of the medical students.

Q.—Are these instruments (the scoops) the same as they were when the operation was completed? A.—No; they have been straightened since. They were bent.

Dr. ANNAND. Q.—Both of them? A.—One of them was bent, and the spring of the other was broken.

By Mr. PURVES—

Q.—Do you know which one was bent? A.—No. I saw them immediately after the operation, but I have had nothing to do with them since. They were not under my charge.

Q.—Who was using the one which was bent? A.—Dr. Webb and Dr. Beaney were using the two, but I cannot say who had hold of the one that was bent.

Q.—There is one more question I wish to ask Dr. Annand. Prior to this man's decease, was he not in a state of collapse? A.—Yes, he was.

Q.—How long was he in that state? A.—Well, he was in that state—a state of collapse—about seven or eight hours before he died.

Q.—Did you take any means to revive his energies? A.—Yes.

Q.—What were they? A.—We gave him as much stimulants as he would take?

Q.—What sort of stimulants? A.—Brandy and champagne.

Q.—Did not Dr. Beaney order some other reviving treatment to be adopted? A.—Yes. When Dr. Beaney saw him on Sunday afternoon the man was then in a state of collapse, and he ordered him forty grains of calomel to arouse him.

Q.—Any external application? A.—Yes; he ordered the wardsman to apply a poultice of mustard and linseed.

Q.—Turpentine and linseed, was it not? A.—It might have been turpentine.

By the CORONER—

Q.—Was it forty grains of calomel? A.—Yes; to rouse the man.

By Mr. PURVES—

Q.—Do you know whether this unfortunate man ever suffered from any organic disease other than organic disease of the kidney—disease of the parts, for instance? A.—What parts?

Q.—Of the urinary parts? A.—I have not heard. He suffered from stricture some time before he came into the hospital.

Q.—Had he suffered from a discharge of mucous and bloody matter of any kind? A.—Yes; he suffered from that—from discharge from the urethra—for some time.

Q.—Would not that show organic disease? A.—A good deal of the thing depends on the presence of the stone in the bladder.

Dr. ANNAN

Q.—Were hot poultices ordered to his feet and spine? A.—Yes, to his feet; I don't know about the spine.

Q.—Was not port wine ordered by Dr. Beaney? A.—Yes.

Q.—In place of brandy and champagne? A.—Yes; the man's stomach refused brandy and champagne, and he was ordered port wine.

Q.—That was on Sunday afternoon? A.—Yes.

Dr. WILLIAMS

JOHN WILLIAMS, Doctor of Medicine, examined.

By the CORONER—

Q.—What is your position? A.—I am resident physician of the Melbourne Hospital.

Q.—Were you present at this operation? A.—I was. It was on the 2nd December.

Q.—The patient was operated upon for stone? A.—Yes; he was operated upon for stone.

Q.—Do you know how many persons were present at the time? A.—I know that several gentlemen were present.

Q.—Were you assisting? A.—I was not assisting.

Q.—Will you describe the operation—how it was done? A.—The patient was put under chloroform by Dr. Llewellin.

Q.—Come to the operation itself? A.—The patient was put into the lithotomy position, and Dr. Beaney introduced the staff into the bladder. (Staff produced.) It was one similar to that. Dr. Beaney gave it to Dr. Webb to hold. He was then sitting in front of the patient's peritoneum.

By Mr. PURVES—

Q.—What is that in ordinary English? A.—He was sitting in front of the patient's posteriors.

By the CORONER—

Q.—Go on with your description? A.—A metallic speculum was then introduced by Dr. Beaney into the anus. He was holding the speculum himself by the handle. He then made an incision in the centre of the perineum from above downwards. Having made the first incision he withdrew the speculum, and, in a hacking manner—that is, not with one incision—cut down upon the staff. (Mr. PURVES.—A series of incisions?)

Q.—Dissecting down? A.—He was not exactly dissecting. He cut down upon the staff. Having done that, he introduced a director

.WILLIAMS along the groove on the staff into the bladder. The staff was then removed, I believe, by Dr. Webb, and a knife passed into the wound again on the groove in the director. I believe it was the groove of the director, but of that I am not quite certain.

Q.—Along the finger, I presume? A.—After the staff was removed, a knife was introduced alongside the director into the bladder. The director was then removed, the finger of the left hand of the operator being put into its place.

Q.—Passed into the bladder? A.—Passed into the wound. The forceps was then passed alongside the operator's finger, and with some difficulty was got into the bladder. The stone was then grasped in the blades of the forceps. I think I should state that from the position of the handles of the forceps, they being separated, it was evident that the stone was a very large one. Frequent traction, or pulling, was then made use of with the forceps to extract the stone.

Q.—Did it slip, or anything? A.—It always slipped.

Q.—How long did this continue? A.—I could not mention the number of times. The thing was done several times. Two scoops were then used as levers. Not by traction, but as levers. (Scoops produced.) Those, I think, were the scoops. There was another which became angular by the pressure of a spring. All these were used. I don't mean at one time. The two were used at one time, and the one with a spring at another time. The angular one was used with the forceps.

Q.—The scoops were bent, were they not? A.—The two scoops were bent, and the spring on the other one was broken.

Q.—Was great force used? A.—Yes, very great force was used.

Q.—And the stone was finally pressed out in that way? A.—The stone was finally levered out.

Q.—Did you ever see a stone got out in that way before? A.—No, I never did.

Q.—Did you ever hear of one? A.—No, I never did.

Q.—Was it proposed to break the stone, or to crush it? A.—Several gentlemen proposed crushing it.

Q.—Did Dr. Beaney say anything about that suggestion? A.—The last time this suggestion was made, Dr. Beaney remarked, "Oh, I would like to get it out whole." I should also state that I heard Dr. Annand suggest the suprapubic operation.

Q.—Was the first incision made into the rectum? A.—No, it was not.

Q.—The rectum was not cut with a knife? A.—No, it was not cut with a knife.

Q.—You are clear about that? A.—Yes, I think I am clear about that.

Q.—Did you see any one offering a lithotrite to Dr. Beaney? A.—I saw a gentleman offer a lithotrite to Dr. Beaney; I think it was Dr. Webb, but I am not positive.

Q.—Is this the one? (Instrument produced). A.—It was smaller than this.

Q.—Did Dr. Beaney describe the operation before he did it?—did he say what he was about to perform? A.—He stated in words something to this effect, "As the stone is a small one, I will do the median operation." That was in the operating theatre.

Q.—Was he addressing the students? A.—He was addressing those present.

Q.—How long did the operation take? A.—I would say quite an hour and a-half.

Cross-examined by Mr. Purves:—

Q.—You are not a surgeon, I believe? A.—I am.

Q.—How many times have you seen this operation performed? A. Are you alluding to the median operation?

Q.—How often have you seen it done? A.—I have seen it done.

Q.—How many times? A.—I could not tell you.

Q.—Have you ever done it yourself? A.—I have never performed it myself.

Q.—What do you think of this (exhibiting plate)? That is Lloyd's operation? A.—All I can say is that it was not done.

Q.—This is the same speculum that was used in the operation? A.—Yes.

Q.—What is that slit in it for? A.—I imagine it is made with the intention that it should be cut into.

Q.—To guide the scalpel of the operator in cutting into the rectum—that the knife shall not go further than that slit? A.—I imagine that was the intention.

Q.—Would a surgeon introduce a speculum except for that reason? A.—I have not the least idea why it was introduced. It is usual to introduce the finger.

ILLIAMS Q.—And you say that, to the best of your belief, that was not done? A.—It was not.

Q.—If another gentleman swore differently, would you venture to contradict him? A.—Yes, I think I could.

Q.—You not being the man who had the knife? A.—I had my eyes.

Q.—You say the speculum was put into the rectum, and cut down on to? A.—I never said down on the speculum.

Q.—You say the operator then introduced a director along the groove on the staff into the bladder, and that the staff then remained? A.—No, the director remained.

Q.—Yes, the director remained; and you say a knife was passed along the director into the bladder. Was it not the operator's finger that was passed along the director? A.—I think the knife was accompanied by the finger, but of that I am not too sure.

Q.—Was it not in fact the finger and not the knife at all, which went into the bladder? A.—I am not prepared to give a definite answer.

Q.—Was not the knife an imaginative effort? A.—It was the knife to the best of my belief.

Q.—Why, you swore just now positively to the knife. A.—I only swore to the best of my belief.

Q.—You say from the position of the handles of the forceps it was evident that a large stone was got hold of? A.—Yes.

Q.—Did not Dr. Beaney say it was a large stone from that very thing—did he not point out the fact? A.—I don't know that he did.

Q.—When the forceps was introduced, as you say with some difficulty, into the bladder, and seized the stone—when the stone was grasped—did not Dr. Beaney point out to those assembled that the handles showed he had got hold of a large stone? A.—He certainly stated that the stone was very large.

Q.—When the forceps got hold of it? A.—No, not at the first grasp.

Q.—You say all three of the scoops were used? A.—Yes.

Q.—Alternately by Dr. Beaney and Dr. Webb? A.—I could not say the thing was done alternately.

Q.—Was not one scoop introduced under the object, and the other placed over it? A.—Yes, that was the way.

Q.—Well then, would not force be brought to bear upon the top scoop on the stone, in order to press it against the bottom scoop? A.

That would be the case if the scoops were held just as you are holding them, but the operation was not done in that way. Dr. Wil

Q.—Did you hold either scoop? A.—No.

Q.—Dr. Webb held one scoop? A.—Yes.

Q.—Well then, if Dr. Webb says that he was pressing his scoop with all his might against the other scoop, just as I am doing——? A.—But the scoops were not used in that way; there was a different kind of leverage.

Q.—Suppose the scoops placed as I place them now, holding the stone most beautifully, would not all the pressure be on the top scoop, and would not the bottom one feel it also; is not that common sense? A.—Yes, it would.

Q.—Well then, by pressing against the pelvic bone would not the stone jump out of the bladder just as it jumps now out of the scoops on to the table? A.—You make the scoops do the work beautifully, but that was not how the thing was managed at the operation.

Q.—Was it the scoop held by Dr. Beaney, or that held by Dr. Webb, which was bent? A.—They were both bent.

Q.—Is not this one of the scoops actually used? A.—I don't know.

[Mr. PURVES here took up one of the scoops and bent it easily.]

Q.—Is that a fair sample of the instruments used at the Hospital? Is that the sort of thing a man's life ought to depend upon? A.—It all depends upon how the instrument is used.

Q.—Is this the same spring scoop that was used? A.—Yes, I believe so.

Q.—And here is the spring broken; do you call that a powerful instrument? A.—Yes, for the purpose for which it was made. It is a powerful instrument for traction.

Q.—You heard Dr. Annand suggest the suprapubic operation—that is getting out the stone above the pubes? A.—Yes.

Q.—Would you venture to say that with an empty bladder that would be a safe operation to undertake? A.—I only speak of the fact that it was suggested.

Q—Suppose you were operating, would you attempt the suprapubic operation when the bladder was empty? A.—Undoubtedly an empty bladder would be disadvantageous.

Q.—Could it be attempted without facing great inevitable danger? A.—No, it could not.

ILLIAMS Q.—That danger is injury to the peritoneum? A.—Yes.

Q.—The peritoneum is a sort of envelope to the bowels? A.—It is.

Q.—In the case of the bladder being empty, would not it sink down into a sort of cavity which would be covered more or less by the peritoneum? A.—The peritoneum not only covers the bowels, but it lines the cavity they occupy.

Q.—Then would there not, in the suprapubic operation, under such circumstances, be immense danger of cutting into this delicate tissue? A.—There would be more danger than if the bladder were distended.

Q.—Well, then, under the circumstances of this patient, would you, when you found the stone was a big one, at once set to work to cut into the man's belly to get it out there? A.—I would take the matter into very serious consideration.

Q.—Knowing that the bladder was empty? A.—Knowing that the bladder was empty.

Q.—Knowing you had no opportunity of lifting up the bladder, would you still risk cutting into the peritoneum? A.—It might be pushed aside; it is not necessary to cut it.

Q.—But you must cut down to it in order to push it aside; and you would have no staff to guide the blade of the sharp instrument? A.—The operation would then become more difficult, but it would still be practicable.

Q.—When everything had been done for the median operation, you would abandon it, and adopt the suprapubic operation? A.—If I found I could not get the stone out without an irremediable amount of damage, I would do the suprapubic operation.

Q.—If you failed with the suprapubic operation, would you adopt the lateral? A.—No, I would not, for I would know that I must succeed ——

Q.—In killing the patient? A.—No, in getting out the stone.

Q.—Were you present at the rehearsal that took place the day before the operation? A.—What rehearsal?

Q.—Of the operation in the dead-house? A.—No, I was not.

Q.—And the only lithotrites in the Hospital are similar in formation to this? A.—I believe so.

Q.—And one similar to this was brought to Dr. Beaney? A.—Yes.

Q.—Well now, being a physician and surgeon, will you undertake to affirm that this lithotrite is capable of crushing that stone? Will you

say that; after thinking over the matter for a week, and conversing on the subject with other medical men? A.—I believe that a strong lithotrite would crush that stone.

Q.—But we are judging of this one only; do you believe it would crush that stone? A.—I believe it would.

Q.—Would you risk your life on such an instrument? A.—I don't think that is a question you should put. I am not in a position to require such an instrument.

Q.—Would you back yourself against death that that instrument would crush that stone? A.—If I had the preference of having that stone crushed by that instrument or pulled out, I would have it crushed.

Q.—That is no answer. Would you undertake to say that instrument would crush that stone? A.—I think it would.

Q.—Is there such an instrument as Civiale describes—a modification of a forceps and crusher—in the Melbourne Hospital? A.—I am not in a position to say; I never saw one there.

Q.—How came you to meet with Dr. Barker and Dr. Neild privately at Dr. Barker's house? A.—Well, it was done in this way. Some fluid was taken out of the pelvis, and put into a sodawater bottle ——

Q.—Was it at your desire that the consultation took place? Did they invite you? A.—No; I had taken notes at the *post-mortem* examination.

Q.—Did you all three put your heads together? A.—What do you mean?

Q.—Did you consult together; did you reason out and discuss the case together? A.—We certainly did.

Q.—And the other two gentlemen are your seniors? A.—Yes, they are.

Q.—Well, I suppose your mind yields somewhat to their persuasive arguments? A.—There was not much yielding.

Q.—You were all of one mind? A.—Yes, pretty well so.

Q.—Dr. Barker's ideas are your ideas? A.—Certainly not in all things. If you mean that generally we come to the same conclusions I say—yes.

Q.—Was not the result of your deliberations that you all thought alike? A.—I believe we all thought alike before we consulted.

Q.—Your sympathies were with Dr. Barker and Dr. Neild? A.—I had no sympathies in the matter at all.

r. WILLIAMS Q.—How many years have you been a physician and surgeon? A.—I took my degree as doctor of medicine in 1862.

Q.—What is this calculus composed of? A.—As far as I can see it is composed of triple phosphate.

Q.—But it is possible the centre of the thing may be uric? A.—The nucleus of nearly every calculus is uric acid.

Q.—Is it possible in nature to have a calculus composed of uric acid and phosphates? A.—Nature nearly always does that. As a rule the centre of a calculus is generally uric acid.

Q.—A uric acid calculus is very hard? A.—Yes, very hard.

By the CORONER—

Q.—How long have you been in the Hospital? A.—I only went there the day before I witnessed this operation. Before then I only knew the resident medical officers.

Q.—Was it then you first met Dr. Beaney? A.—Yes, I was introduced to Dr. Beaney for the first time then.

Q.—So that you had no prejudices, at all events? A.—I had no prejudices on the subject then, nor have I now.

Q.—Did you ever see a scoop bent like that before? A.—No, I never did.

By Mr. PURVES—

Q.—Did you ever know or see such instruments before? A.—Yes they are the instruments that are used for the purpose.

Q.—Are they of the temper usual in ordinary surgical instruments? A.—They are of the ordinary contour and outline. A scoop that is not expressly made for a lever need not be strong as a lever. Used as a scoop this instrument seems strong enough.

DEMPSTER JOHN JAMES COLQUHOUN DEMPSTER, Doctor of Medicine, examined:—

By the CORONER—

Q.—Were you present at this operation? A.—Yes, I was present by invitation.

Q.—What did Dr. Beaney do? A.—He performed a modification of the median operation. He cut so as to reach the stone very well. It was at once evident that the stone was a very large one—exceptionally large. He attempted to extract it with the forceps several times, but the surface of the stone broke away on one or two occasions, and caused his

forceps to slip off. Eventually the stone was extracted by Dr. Webb and himself with the scoops. I think the operation took altogether about 45 minutes. I am certain to the time within a few minutes because I looked at my watch. The whole operation took between 40 and 50 minutes from the administration of the chloroform to the end of the operation. Dr Dempster

Dr. Youl.—Was the stone levered out?

Dr. Dempster.—It was extracted by a combination of force and leverage with the two scoops. Dr. Beaney had his scoop underneath, and Dr. Webb his scoop above pressing on it so as to prevent hurting the soft parts. The stone required great force. It came out with a jump. It was more levered out than extracted. There was considerable force used. It was necessary, I suppose, to get it out. I judge that from the fact of the forceps slipping off the stone.

Cross-examined—

Mr. Purves.—Were you with Dr. Beaney when he rehearsed the operation on a dead body previously?

Dr. Dempster.—No. I knew very little of Mr. Beaney.

Mr. Purves.—Have you seen any operations for the stone before?

Dr. Dempster.—I have seen lots of operations performed. I was with Mr. Ferguson in England.

Mr. Purves.—Ferguson, the great surgeon?

Dr. Dempster.—Yes. I have also seen the lateral and the median (not Lloyd's) operation performed.

The Coroner.—Have you ever seen a stone as large as this extracted?

Dr. Dempster.—No. I suggested to Mr. Beaney to crush the stone, but saw no instrument there suitable. These instruments (the lithotrites produced) are powerless for such work. I looked over the table, but saw nothing fit to do it with. There is a particular kind of forceps made for crushing large stones which is introduced through the wound.

The Coroner.—Had you been performing the operation, would you not have seen that there was an instrument there with which to crush the stone if necessary?

Dr. Dempster.—I do not think there is an instrument in Melbourne which could crush that stone.

Mr. Purves.—Can you ascertain the size of the stone beforehand?

Dempster Dr. Dempster.—To a certain extent, but not to a nicety. A stone of that size would occupy a large amount of space in the bladder, varying from one-third to one-fourth of the bladder. Mr. Beaney got the stone out of the bladder several times, but it slipped back again.

Mr. Purves.—Did you see any neglect or want of care?

Dr. Dempster.—No. I saw a good deal of force used, but no neglect or want of care.

Mr. Purves.—There are many cases, I suppose, both medical and surgical, where it becomes absolutely necessary for a medical man at some particular juncture to make up his mind at once and to act?

Dr. Dempster.—Of course.

Mr. Purves.—There was no instrument there to crush that stone?

Dr. Dempster.—No.

The Coroner.—Was there nothing there with which he could have attempted to crush that stone?

Dr. Dempster.—The stone was of exceptional size, weighing 6½ ozs., and would require a very powerful instrument to crush it. Mr. Beaney asked my opinion on the case, and at his request I examined the man before the extraction of the stone.

The Coroner.—What would you have done had it been your case?

Dr. Dempster.—I would have divided the other side of the prostate gland. If I had had a proper instrument I would have crushed the stone.

The Coroner.—Would you have adopted the suprapubic operation?

Dr. Dempster.—I think not.

The Coroner.—Would not this lithotrite have been powerful enough to crush it?

Dr. Dempster.—I do not think there would have been room in the instrument to grasp it.

r. Moloney. PATRICK MOLONEY, Doctor of Medicine, examined—

By the Coroner—

Q.—You are one of the honorary physicians to the Melbourne Hospital? A.—Yes.

Q.—Were you present at this operation? A.—Yes. I went into the operating theatre accidentally, just as it was finished.

Q.—Was the bladder cut into when you got there? A.—Yes.

Q.—The principal part of the operation was done by that time, then? A.—Yes.

Q.—Describe what you saw. A.—The first thing I saw was that Mr. Beaney had hold of a very large stone with a pair of forceps. He pulled the stone several times to the mouth of the external wound, and in the process some outside pieces of the stone chipped off. I saw Dr. Webb assisting him by using a scoop, and when Mr. Beaney pulled the stone forward, Dr. Webb placed the scoop he held behind the stone, and tried to lever it out of the bladder. It appeared to me that the large forceps used by Mr. Beaney did not hold the stone. It came down several times before it was finally extracted. Considerable force was used in the extraction of the stone.

Q.—Was there, do you think, sufficient force used to seriously injure the soft parts at the time, and may not the man have suffered from such a severe operation where the parts were so much dilated? A.—I don't think that more force was used than was necessary to complete the operation.

Q.—Was force used sufficient to injure the soft parts? A.—Yes.

Q.—What more did you see? A.—Shortly after I entered, Mr. Beaney remarked to me something to the effect that it was an unusually large stone. Having seen the stone got so close to the outside, I said, "Cannot you crush it?" or something to that effect. I turned round to the lithotomy case and selected the largest instrument I could find.

Q.—The case was there then? A.—Yes.

Q.—And you selected the largest instrument. A.—Yes.

Q.—Did you hand it to him? A.—Mr. Beaney turned round in a way that conveyed to me an impression that he entertained the idea of crushing the stone. He did inspect the instrument, but on looking at it I made a remark that I did not think it was strong enough for the purpose. I think Dr. Webb took the instrument into his hand—that is my impression—and put it down near Mr. Beaney. At any rate it was rejected. I do not think Mr. Beaney took it into his hands.

By Mr. Purves :—

Q.—Did he use this instrument? A.—I do not think so.

Q.—Did you see this stone lifted out of the bladder several times, and did you agree with the advice put forward that it should be crushed? A.—Yes.

Q.—Did you say that the obstruction that prevented the extraction of the stone appeared to be at the rectum? A.—Yes, it appeared to me to be there, for it seemed to have passed the bladder.

Dr. MOLONEY. Q.—You know that there are improvements being made in surgical instruments every day? A.—Yes.

Q.—You won't attempt to say that these are the latest and best inventions for crushing stone in the bladder? A.—No, but there are other lithotrites than those you produce.

Q.—This small one is to pass through the penis into the bladder? A.—Yes, I call that a urethra lithotrite.

Q.—You have been some years in the Melbourne Hospital, have you not? A.—Yes.

Q.—Do you know how often this stock of instruments has been renewed there? A.—No, I cannot say.

Q.—Would you consider that if any instrument bent in the way the one produced has, that it would be a proper one to be used? A.—I have seen instruments bend and break in operations; but that is not a usual thing.

The CORONER.—That is not the instrument to use: that is a scoop, is it not? A.—Yes, but it had some slight leverage.

Q.—What would you have done under the circumstances you have described? A.—There were two courses open, either to enlarge the opening of the wound or decrease the size of the stone.

Q.—That is what you would have done? A.—Under the circumstances the stone could not be crushed. If the lithotrite had broken in the bladder it might have left a part there, and that would have increased the injuries. The lithotrite produced would have had no effect upon the stone at all; it would just lift it up, and no more.

Q.—Do you think it would have been safer to have enlarged the wound, or broken the stone? A.—There is a difference of opinion amongst surgeons as to whether it was better, when the stone was found to be larger than expected, to dilate the wound or to enlarge it by cutting. The modern tendency on this vexed question is, I think, in favour of cutting. The chipping away of portions of the stone outside indicated that it was softer than in other parts.

Q.—All this outer part could easily have been taken off? A.—If the whole was phosphate it could easily have been crushed.

JOHN HOLDEN WEBB, M.R.C.S., examined—

Dr. WEBB. By the CORONER:—

You are a legally qualified medical practitioner? A.—Yes; and am honorary surgeon to the Melbourne Hospital.

Dr. Webb.

Q.—You were at this operation? A.—Yes, I received a note from a medical man at Talbot stating that he had a case of stone in the Amherst Hospital, and asking me if I would like to get the man a bed in the Melbourne Hospital and operate on him myself. We had had several cases of stone together before that—two or three. He told me the stone was fairly large, and I mentioned the case to Mr. Beaney, who said that he did not think the committee would like me to operate myself. Berth came down to my place at East Melbourne, and on the day following whilst there, was taken very ill from the exertions consequent on the long journey coming down to Melbourne. While Berth was at my house he was so ill that he lay on my couch for several hours. He took lodgings in a neighbouring hotel until I could get him a bed in the Hospital.

Q.—Did you see him at the Hospital? A.—I saw him.

Q.—Did you mention to Mr. Beaney the state the man was in? A.—I told him he was not a strong man.

Q.—Did you tell him of the illness he had suffered from in your house? A.—No, I did not think of it at the time.

Q.—You were present at the operation? A.—I was, and assisted.

Q.—Tell us what you saw? A.—Mr. Beaney had got hold of the stone between the forceps, and said, "Dear me, it is not a very large one." He worked at it from side to side, for the purpose of dilating the wound with the forceps. The stone slipped away from the forceps in the most provoking way. Mr. Beaney afterwards caught the stone by its long diameter, and exclaimed, "My God! what a large stone it is." I said, "What do you think of crushing it?" For a few minutes Mr. Beaney was dilating with his thumb and finger until he could get hold of the stone. Part of it broke off when it appeared to be almost extracted, and slipped back again; it was most aggravating. Mr. Beaney said to me, "See if you can get hold of it," and just then it slipped back again. I then took up this lithotrite, and said to Mr. Beaney, "What do you think of that?" He looked at it and put it down again. Mr. Beaney then said to me, "See if you cannot hold it." Mr. Allan, one of the students, then handed me another instrument (a lithotrite produced), and I said, "I am afraid this will break; it is no use this sort of thing." [While Dr. Webb was working the instrument before the jury it broke].

DR. WEBB.

Mr. PURVES, to the jury.—You see, gentlemen, the instrument has just broken while in use.

Dr. WEBB continued:—I tried the scoop that Mr. Allan handed to me. The lithotrite worked easier than it did just now. That instrument (the scoop) was no good at all. Then the stone came out almost again, and on the application of the scoop it just held the stone in its position. Mr. Beaney turned round to the gentlemen present, and said, "Well, it is almost impossible to get it out." I said, "It is caught under the symphysis." Mr. Beaney then passed the scoop under the stone. I said, "I think I can do it now." I got another scoop and put it over the stone, but, not being able to get at it from the side I was on, I went round to the other side of the patient, and pressed with the scoop on to the upper part of the stone down towards the bottom scoop. The stone then rolled out between the two scoops, and fell on to the ground.

Q.—Did you bend the scoop in doing it? A.—Certainly I did.

Q.—This scoop is not intended to be used with force? A.—A fair amount of force is allowed in a case like this.

Q.—You were using one kind of instrument, and put that down to take another? A.—Sometimes, when you cannot get the instrument you want, you must take what you can get.

A JURYMAN.—Was there any consultation as to the size of the stone before the operation was performed? A.—That was a part of the Hospital economics that I know nothing about.

The CORONER.—So far as you know there was no consultation? A.—Yes, so far as I know.

A JURYMAN.—Have you had any experience in operations for stone? A.—I was house surgeon at the Lock Hospital, London, and St. Peter's Hospital for stone is in the adjoining street. It was the custom between the two hospitals to interchange visits when operations were performed at either hospital. In St. Peter's Hospital there are more operations performed than in any two hospitals in the United Kingdom excepting the Norwich Hospital. I have seen, I believe, more than 100 operations for stone.

The CORONER.—Have you ever seen a stone got out in this way before? A.—No, I never did; but I never saw so large a stone.

By Mr. PURVES:—

Q.—At any time when a stone appeared to be almost extracted, was it a common thing to use the forceps for dilatation? A.—Yes.

Q.—This prostate gland we have heard of, is it not a thing about as big as a walnut? A.—Yes. Dr. WEBB.

Q.—Do you believe with Erichsen, in spite of Dr. Barker, that dilatation means laceration? A.—I do.

The CORONER.—When you operate on the prostate gland you must always lacerate? A.—Yes.

Mr. PURVES.—When the pressure was brought to bear on the scoop you used, the force would act upon the side of the stone, and upon the bottom scoop held by Mr. Beaney? A.—Yes, and then the stone rolled out. If I knew all about the stone then, as I do now, I could take it away as easily as possible.

Q.—It was a mere misadventure because of the position the stone assumed? A.—Yes.

Q.—There is a case in the books of a stone 16 oz. or 14 oz. weight being taken out of a man's bladder? A.—Yes, and the man lived after the operation. I believe there is another case of a 10 oz. stone being taken out and the patient recovered.

Q.—You have read what disease the late Emperor Napoleon died from? A.—Yes.

Q.—What did he die from? Do you know what the disease known as "surgical kidney" is? A.—Yes; I know the disease. The Emperor Napoleon died from acute pyelites from the pressure of the stone upon the orifice of the bladder, impeding the flow of water.

Q.—That would cause inflammation? A.—Yes; it is a disease that often slumbers for years and then lights up by some interference with the genital organs. One kidney alone is usually affected, and those organs are discovered to be enlarged and gorged with blood. The capsules strip easily, and may have some part adhering when stript off. The calices are enlarged, and often are the seats of small abcesses.

The CORONER.—Then this disease does not show itself during life? A.—No. The authorities tell us you cannot tell of its existence. In the Emperor's case the disease was not suspected.

Mr. PURVES.—How long did the operation on Berth last? A.—I cannot tell: there were so many things passing before me.

The CORONER.—Would you have used the lithotrite? A.—I would, but it is a very difficult instrument to use.

The CORONER.—It is an operation that is very often performed; Dr.

WEBB. Thompson did not take long to collect the materials for publishing his 200 cases.

Dr. WEBB.—True ; but he had cases of stone coming to him from all parts of the world.

At this stage the inquest was adjourned, and was resumed at noon next day.

WILLIAMS JAMES WILLIAMS, secretary of the Melbourne Hospital, examined—

By the CORONER:—

Q.—You produce the rules of the Hospital?. A.—I do.

Q.—Are they framed under an Act of Parliament? A.—Yes; they are framed by the Committee under the Hospital Act.

Q.—Is a copy of the rules sent to each of the medical officers of the institution? A.—Yes.

Q.—Did you furnish each of the new surgeons with a copy? A.—I did.

Q.—You sent Mr. Beaney a copy? A.—Yes.

Q.—On his appointment as honorary surgeon? A.—Yes.

Q—What are the rules with reference to operations? A.—Rule No. 7 is the one which refers to operations.

[Witness handed a copy of the rules to the Coroner.]

The CORONER.—This is rule No. 7, gentlemen—

"No important operation is surgery shall be performed without the previous consent of the patient (if in a position to give it), nor unless sanctioned on a consultation, by two at least of the surgeons, except in cases or emergency. All consultations (cases of emergency excepted) shall be held on Tuesday, in the consultation-room. The result of each consultation shall be entered in the consultation-book, to which the surgeons present shall attach their signatures. All capital operations (cases of emergency excepted) shall be performed at two o'clock on Mondays and Thursdays. Unless absolutely necessary, no operation shall be performed on Sunday."

LEWELLIN AUGUSTUS LEWELLIN, resident physician at the Melbourne Hospital, examined—

By the CORONER—

Q.—Did you administer chloroform to the patient Berth at the operation on the 2nd of December? A.—Yes.

Q.—He was operated on for stone by Mr. Beaney? A.—Yes.

Dr. LEWELLIN

Q.—How long did the operation last? A.—The patient was under chloroform only an hour and a-half.

Q.—How did you estimate the time? A.—I looked at my watch before the operation was commenced, and after it was over.

Q.—Did you see the operation at all, or were you attending to the chloroform? A.—I saw a portion of the operation once or twice.

Q.—Did you hear any proposition made to crush the stone? A.—I heard Mr. Webb propose to crush the stone.

Q.—What did Mr. Beaney say? A.—He said, "No, I should like to get it out whole."

Q.—Did you see any force used in extracting the stone? A.—I saw Mr. Beaney one time use force with the forceps—considerable force.

Q.—With the forceps? A.—Yes.

Q.—You did not see the levers used at all? A.—No.

Q.—Did Mr. Beaney say the stone was a large or a small one? A.—Before he commenced to operate he said, "As the stone is a small one, I shall do the median operation."

Cross-examined by Mr. PURVES.

Q.—I suppose you were wholly engaged in attending to your particular duty? A.—Yes.

Q—And your whole attention should be devoted to your duty? A.—Yes.

Dr. SMYTHE

WILLIAM STEWART SMYTHE, Physician and Surgeon, examined.

By the CORONER—

Q.—You live at Sandridge? A.—Yes.

Q.—Were you present at the operation on Berth? A.—I was.

Q.—Did you go to the Hospital accidentally? A.—No, I received notice of the operation.

Q.—From whom? A.—Mr. Beaney.

Q.—Can you say how long the operation lasted? A.—I cannot.

Q.—Can you form any idea? A.—Yes.

Q.—Give us a rough guess? A.—I should say about an hour, including the administration of the chloroform.

Q.—Did you see how the operation was performed? A.—Yes.

Q.—Was the surgical part—the cutting part—of the operation got through with rapidity? A.—The stone was reached and seized in what I consider very reasonable time.

. SMYTHE. Q.—Did you see that it was a large stone? A.—It was difficult for me, from the position I occupied, to see what the size of the stone was. The operator's body was between me and the hands of the instrument.

Q.—However, the stone was not extracted? A.—Not then.

Q.—Will you describe what you did see? A.—I saw a pair of straight forceps introduced, and the stone appeared to be seized without any difficulty. The efforts to extract it were unsuccessful.

Q.—Were they used with force? A.—I could not describe the amount of force, as I was not in the theatre itself, but in the front seat of the amphitheatre.

Q.—The attempt to extract the stone was not successful? A.—With the straight forceps the stone slipped. Other forceps were then used—curved ones.

Q.—And with the same result? A.—With a similar result.

Q.—What was done then? A.—To the best of my recollection the scoops were then used.

Q.—How were they used? A.—In the ordinary way in the first instance.

Q.—And then? A.—And then there was some levering force employed, one scoop being used against the other, and the scoops being held by two separate individuals.

Q.—By Mr. Beaney and Dr. Webb? A.—Yes. Under these efforts the stone appeared to be almost ready to come into the external aperture. I was under the impression that I saw the stone once or twice then, but I could not be certain. After that the forceps were again used, assisted by the spring scoops.

Q.—Was the stone extracted then? A.—Ultimately the stone was extracted and fell upon the floor.

Q.—Were you capable of estimating the force used? A.—No.

Q.—Did you ever see a stone extracted in that way before. A.—Never.

Q.—Have you seen many operations for stone? A.—Over 50—in England, America, and other countries.

Q.—Did you hear Mr. Beaney say he would do the median operation because the stone was small? A.—No. I was in the gallery, and did not hear any of the conversation. What was said was said in a low tone of voice.

Q.—You did not hear anything Mr. Beaney said? A.—No, I cannot say I did during the operation.

Q.—I mean before. It was given in evidence by Mr. Lewellin and Dr. Williams that Mr. Beaney said he would do the median operation because the stone was a small one. A.—I did not hear that.

Q.—Was Mr. Webb acting under the instructions of Mr. Beaney? A.—I saw Mr. Webb assisting Mr. Beaney, but I do not know whether he was acting under his instructions.

Q.—Did you see the scoops bent? A.—Yes.

Q.—Were they bent by the proper use of a scoop, or by leverage? A.—I could hardly tell that from the angle at which I viewed the operation. I saw the scoop go in straight and come out a little bent.

Q.—In the operation for stone, if you wanted to use the scoops how would you use them? A.—It depends upon the stone to a great extent.

Q.—Are they intended for leverage? A.—Slightly—within reasonable bounds. A good deal depends upon the fulcrum that can be obtained.

Q.—You would use a scoop slightly for leverage? A.—I would be inclined to do so.

Q.—To the extent of bending an instrument of this kind? (The Coroner here exhibited one of the scoops to the witness.) A.—It depends very much upon the temper and strength of the instrument.

Mr. Purves (to the Coroner).—This is the wrong scoop. You invariably put out the wrong one.

The Coroner.—I think there is evidence that both were bent.

Mr. Purves.—No.

The Coroner.—What are you going to ask the witness?

Mr. Purves.—I shall not ask him anything.

The Coroner.—Would you have done the suprapubic operation under the circumstances?

Witness.—Considering the length of time the patient had been under chloroform, and the amount of traction used, I should have hesitated very much before undertaking to perform the suprapubic operation.

The Coroner.—But when, after the lapse of five or ten minutes, you found the stone difficult to extract, would you have tried the suprapubic operation?

Witness.—Before that time I should have made some effort to crush the stone.

The CORONER (to Mr. Purves).—Do you want to put any questions?

Mr. PURVES.—No, unless the detectives wish to suggest some more questions for you to ask.

The CORONER.—I occupy a twofold position. I am here as prosecutor and as judge. I have given Mr. Beaney the privilege of having the advantage of your being heard, because I think that a man who has a charge against him is entitled to be represented by counsel. The Crown, however, has not chosen to send any person here to conduct the case in its behalf, and therefore I must, to a certain extent, act as prosecutor, however much I may object to be obliged to do so. I certainly have asked questions which otherwise I should not have done, but I think that you must admit that I have exercised a very fair discretion.

Mr. PURVES.—Much better than usual.

Dr. FERNAN.

EDWARD HEFFERNAN, Bachelor of Medicine, examined.

By the CORONER—

Q.—Are you registered here? A.—Yes.

Q.—Where do you live? A.—In Latrobe-street.

Q.—Were you present at the operation? A.—I was.

Q.—Can you give us any idea of the time it occupied? A.—I did not see the operation concluded, but it was going on about an hour while I was there.

Q.—Did Mr. Beaney make any remark before he commenced the operation? A.—Yes, while the patient was being put under chloroform, he stated to the students and to those present that, as the stone was a small one, he proposed to do the median operation.

Q.—Why did you leave? A.—I left about a quarter past five o'clock.

Q.—Why? A.—Because the next day was registration day, and I had to get my diploma from the University.

Q.—You saw the operation going on until you left? A.—Yes.

Q.—Was there any force used in trying to extract the stone? A.—Yes, there was considerable force used. I may state that I saw the forceps slip several times, and on one occasion a piece of the stone came away, which I had in my hand afterwards.

Q.—Did you see these scoops used? A.—Yes, when the forceps was applied, I saw one of the scoops used to lever the stone out.

Dr. Heffern

Q.—Was it used as a lever? A.—I infer that it must have been.

Q.—Inferred is nothing; did you see it? A.—I saw Dr. Webb use the scoop, and press it against the pubis as a lever.

Q.—Did he use considerable force with it? A.—Dr. Webb?

The Coroner.—Yes.

Witness.—I don't know; I would not like to say.

Q.—That is all you saw? A.—That is all I saw of the operation. I did not see the stone taken out.

Q.—And you were there an hour. A.—I was there about an hour.

[The witness was not cross-examined.]

A Juryman.—Did you see any means taken by Dr. Beaney to ascertain the size of the stone? A.—No. I suppose that was done before.

The Coroner.—No means were taken?

Witness.—Not at that time.

The Coroner.—There is the evidence of Dr. Annand that Mr. Beaney passed a "sound" to ascertain if there was a stone. I can re-call Dr. Annand.

A Juryman.—It does not matter.

Witness.—I also heard Dr. Moloney recommend that the stone should be crushed, but I cannot tell what the reply was.

Dr. Annand

Dr. Annand, recalled and further examined.

The Coroner.—You produce the case-book of the Hospital, in which the case of the deceased Berth is entered? A.—Yes.

The Coroner (to the jury).—What do you want to know?

A Juryman.—Whether any means were used to ascertain the size of the stone before the operation?

Witness.—When I first saw the man, which was before Mr. Beaney saw him, I passed a sound into his bladder to ascertain the size of the stone, and I ascertained it was a large rough stone.

A Juryman.—Large is a comparative term.

Witness.—Large as stones go; and I made the students present feel it with the "sound."

The Coroner.—Did you make an entry in the book? A.—No. It is the duty of the student who has charge of the book. In consequence of these remarks an entry was made in the case-book that the stone was of good size.

Q.—Was there any examination of the urine made to ascertain

ANNAND. whether the man had disease of the kidney? A.—No ; no examination. The urine was kept, but not examined.

Q.—And he might have had any disease of the kidneys ? A.—Some of the urine kept in a bottle was shown to Mr. Beaney.

A JURYMAN.—Is it customary to have a consultation on the Tuesday before an operation is performed, or is it merely an exceptional case when a consultation is held?

WITNESS.—It is customary, and there was an exception in this case.

A JURYMAN.—I suppose exceptions are not the rule ?

WITNESS.—It is customary with the other surgeons to call consultations.

Another JURYMAN.—Are consultations always called?

WITNESS.—They are always called so far as I know.

A JURYMAN.—And the surgeons never fail to respond?

Mr. PURVES.—Yesterday he said they did.

WITNESS.—They generally come.

A JURYMAN.—They always come?

WITNESS.—I cannot say they always come, but they generally do.

Cross-examined by Mr. PURVES—

Q.—Is there considerable disorder and ill-feeling amongst the medical staff of the Hospital? A.—The resident staff?

Q.—I mean amongst the whole staff of the Hospital, from the top to the bottom, from you to the very highest? A.—No ; I don't know that there is any particular ill feeling.

Q.—Do you know that in this case the three honorary surgeons were communicated with and asked to attend, but did not? A.—They were asked to the operation, but did not attend.

Q.—If they had attended the operation there could have been a consultation? A.—No.

Q.—Could they not have consulted? A.—It is the custom to hold consultations before operating.

Q.—During an active operation for stone there is no consultation? A.—They always hold consultations beforehand.

Q.—Did not this man come to the Melbourne Hospital to be operated on for stone? A.—I stated so yesterday.

Q.—How do you know what diagnosis may have been made for stone by the doctors at Amherst? A.—The man told me he had been told that he was suffering from stone in the bladder.

Mr. PURVES.—Listen to this, and say if you agree with it:—

"A surgeon may mistake a hardened and fasciculated bladder, having its ridges perhaps incrusted with sabulous matter, for a calculus; this is especially apt to happen in children. In these cases, however, the mistake may usually be guarded against by the absence of a distinct click, though a rough grating sensation be experienced, and by the surgeon being unable to isolate a stone. Yet the difficulty in some cases is great. Velpeau states that he is acquainted with four instances, and S. Cooper with seven, in which patients have been cut and no calculus found; and when we reflect that these accidents have happened to such men as Cheselden, who, on three occasions, cut a patient and found no stone; to Crosse, to Roux, and to Dupuytren, it is easy to understand that in some cases the difficulty of coming to a correct decision must be very great."

Do you agree with this?

WITNESS.—This case presented no difficulty whatever.

Q.—Pray, Mr. Annand, was it your business to sound this patient at all? A.—Yes it was.

Q.—Part of your business? A.—Yes.

Q.—Pray where do you find that? A.—I have a perfect right to examine all the patients who come in.

Q.—As resident surgeon? A.—Yes.

Q.—Are you a surgeon? A.—I am resident surgeon.

Q.—Are you a surgeon? A.—I am a doctor of medicine.

Q.—Do you still consider it your business to interfere with the honorary surgeons' patients in these matters? A.—I do not consider there was any interference.

Q.—Were you present when Dr. Beaney passed the sound into the bladder of this patient? A.—Yes.

Q.—Did you hear the man say—"Oh, doctor, don't; I have been put to such pain already?" A.—I do not remember that.

Q.—I want a distinct, positive statement. A.—I do not remember the man making that remark.

Q.—Did the man complain of having been put to pain already? A.—I don't remember that.

Q.—Did he complain of suffering pain? A.—Yes, he always complained of that.

Q.—When you introduced the sound? A.—Yes, he complained of it then.

Q.—Did you on one occasion attempt to insert a catheter into a patient who was suffering from stricture and fail, and then send for Dr. Beaney. A.—Yes.

. ANNAND. Q.—How many times did you do that? Did it not happen in two cases? A.—Once. In that case the man had had medicine which made him subject to spasms.

Q.—Was there not another case? A.—No; the other case was that of a man on whom Mr. Beaney had operated, and I did not wish to pass the catheter.

Q.—Did you try? A.—I did not use any force.

Q.—But you did try? A.—You must allow me to explain.

Q.—You did attempt, and failed? A.—Yes.

Q.—Did not Dr. Beaney do it instantaneously? A.—I failed because I did not use any force. Mr. Beaney was coming down, and I asked him to pass a catheter. He had operated, and I did not want to leave him any margin to say that I had forced an entrance.

The CORONER.—I desire to recall Dr. Webb, because I find that the statement he made to the detective police—which is one of the statements that caused this inquest to be held—is quite at variance with the evidence he gave yesterday; and I want him to explain how that happens.

Mr. WEBB.—How at variance?

Mr. PURVES (to Mr. Webb).—You are entitled to know all the circumstances connected with your re-examination, and you can only be recalled by the express permission of the Coroner.

The CORONER.—I wish to recall him. In the first place I will ask Detective Duncan to read the statement which Dr. Webb made to him.

Mr. PURVES.—Is this gentleman, on the mere statement of a detective, to be tried by this jury for perjury?

The CORONER.—I am not going to charge him with perjury, but I think he should give an explanation of his evidence, because it was upon his statement, and similar statements, that the body of the deceased was exhumed, and all this inquiry and trouble was brought about.

Mr. PURVES.—I have serious doubts as to whether this inquiry was brought about by any statement made by Dr. Webb. When I address the jury I will point out how it arose, in my opinion.

The CORONER.—I have simply given my opinion as far as I know about the case. Perhaps it will be better to take Detective Duncan's evidence first.

Mr. PURVES.—I object to Duncan's evidence. He is a detective. He has been prompting you, and he represents the Crown here to a

certain extent. Any statement he may choose to vamp up is not evidence against anybody against whom this inquiry may be directed. Dr. ANNAN

The CORONER.—If he vamped it up it would not be evidence at all. All I can say is, that the statement made by Mr. Webb to Detective Duncan was the statement upon which the Minister of Justice acted when he ordered this body to be exhumed. Therefore I should like to know whether that statement is truthful or not.

Mr. PURVES.—Mr. Webb has answered that by the evidence he gave yesterday.

DETECTIVE DUNCAN was then examined as follows:— Mr. DUNCA

By the CORONER—

Q.—What is your name? A.—John Duncan.

Q,—Were you employed in this case? A.—I received instructions from the officer in charge of the detectives to make inquiries in this case.

Q.—Did you see Mr. Webb upon the subject? A.—I did. I did not see him first. I called on several medical men before calling on Mr. Webb. From the gentleman first called upon I received certain particulars in connection with the case. When I called on Mr. Webb I read him the particulars so obtained. I now have those particulars in my hand.

Q.—Will you read them? A.—I will. I said to Dr. Webb, "Do you agree with what is mentioned here, or do you differ from it?" He said, "I agree with it." I said, "Well, now, Dr. Webb, will you be good enough to answer me a few questions?" He said, "I will." I said, "Did you take part in this operation?" He replied, "I did." I said, "To what extent?" "Well," he said, "to tell you the truth I was there under Dr. Beaney; I was in the same position as a lieutenant under a captain, and I was bound to do as I was told." I said, "Very good, doctor. Was there an incision made in the bladder for the purpose of inserting any instrument?" He said, "There was." I said, "Who made that incision?" He said, "Dr. Beaney."

The CORONER.—To extract the stone?

Detective DUNCAN.—He did not say that. I said, "How was it made, doctor?" He said, "In a rather hacking sort of way." I said, "Well?" He said, "The forceps were inserted, and the stone caught hold of; it slipped, and part of the stone came away with the forceps." I said, "Was the stone what they call phosphatic?" He said, "Yes." He

[r. DUNCAN. also said, "Dr. Beaney made several efforts to remove the stone, and failed, and I then suggested to him to crush it." I said, "Now, doctor, supposing you had been the principal in this operation, what mode would you have adopted?" He said, "The suprapubic." I showed him this sketch (sketch exhibited), and he pointed out the place where the suprapubic operation should be effected. I then left his house, and continued the inquiry elsewhere.

Mr. WEBB.—Do you say that I used the word "hacking?"

Detective DUNCAN.—Yes.

Mr. WEBB.—I never used such a word.

Detective Duncan cross-examined by Mr. PURVES:—

Q.—Who was the first medical man to whom you went, and from whom you got a written report? A.—I went to the Hospital. Dr. Williams and Dr. Duncan were there together, and Dr. Annand came in soon after.

Q.—I asked you who was the first one you saw? A.—Dr. Duncan and Dr. Williams.

Q.—You say you got a report in writing—from whom did you receive that? A.—Dr. Williams. They were all together.

Q.—Who made the sketch? A.—Dr. Duncan, I think, but I am not sure.

Q.—Are you quite sure about that? A.—Yes; I think it was him.

Q.—Do you know who is the writter of the letter in the *Argus*, signed "A Practical Surgeon?" A.—I don't. I have not the remotest idea.

The CORONER (to Mr. Webb).—Do you wish to ask the witness any questions?

Mr. WEBB.—I will swear I never used the word "hacking."

Mr. PURVES.—I would certainly advise you not to ask a detective any more questions than you can help.

The CORONER (to Mr. Webb).—I will take down any statement you wish to make.

Mr. WEBB. Mr. WEBB was then examined by the Coroner as follows:—

Q.—What do you desire to state? A.—I did not use the word "hacking." I said that the operation, so far as catching the stone, was done exceedingly well, and I say so now.

Mr. WEBB.

Q.—As regards the diagram or sketch? A.—I really do not know whether he showed it to me or not. I don't recollect it.

Q.—Did you make any statement about the suprapubic operation? —No, I will swear I did not. He may have used the word "suprapubic," and I not listened to it. I am certain I did not use the word "suprapubic" to him. He may have asked me a question about it, and I may have answered it.

Q.—Did you say it to anybody else? A.—I may have done. I may have mentioned it at the time of the operation. I am not quite certain about that. I said to Detective Duncan, "Anything I have said you must not take as very material; for you to come here and me to answer your questions looks very much like a spy. There is just one other remark I wish to make. It has been reported that I stated that the patient suffered from the effects of the journey to Melbourne. That is true. He came to my house on the night of my arrival in Melbourne. I saw him next morning, but not on the night of his arrival.

The CORONER.—If you want to correct all the little things in the newspapers to which you take exception, your life will not be long enough for the task.

Dr. DUNCAN.

JAMES CAMPBELL DUNCAN, examined—

By the CORONER—

Q.—You are one of the resident surgeons at the Melbourne Hospital? A.—I am the senior resident surgeon.

Q.—Have you charge of the instruments? A.—Yes.

Q.—Is it your duty to put out the instruments before operations? A. —No, it is not my duty.

Q.—Who does it? A.—The operating wardsman.

Q.—Is the Hospital properly supplied with instruments? A.—Yes, it is.

Q.—Well supplied? A.—Well supplied.

Q.—Is there an instrument for crushing stone during the operation of lithotomy? A.—There are four instruments for crushing stone.

Q.—Have you a strong lithotrite for crushing such a stone as was found in this case? A.—Yes.

Q.—Where is it? A.—This (producing one of the Hospital lithotrites) is it.

Q.—Were you present at this operation? A.—No.

Dr. DUNCAN. Q.—Are these scoops (the scoops used during the operation) in their proper order? A.—They were in proper order the day before, and up to the time of the operation.

Q.—They are not intended to be used with such force as to bend them? A.—They are scoops, not levers. They are used for drawing the stone to the opening of the bladder, and then the stone can be extracted with the aid of the spoon forceps, or by the finger. They are not tempered steel, they are wrought steel. No tempered steel instrument would be used in the bladder for fear of breaking, as it might break in case of accident.

A JURYMAN.—Have you any stronger instrument for crushing a stone?

WITNESS.—Stronger than this lithotrite?

A JURYMAN.—Yes.

WITNESS.—This would crush road metal. With the next size to this I crushed a piece of road metal three-quarters of an inch through, by one inch and a-half long. Road metal is a kind of granite, very different from phosphatic stone.

Mr. PURVES.—Is this gentleman an advocate?

WITNESS.—You are disputing about my instruments.

The CORONER.—He answered a question put by the jury. You say that these scoops are made of wrought steel, and are not intended to bend?

WITNESS.—They are not intended to be bent, but they are intended not to be brittle, so that in case they are used roughly they will not break.

The CORONER.—You say that you crushed road metal with the next sized lithotrite to this?

WITNESS.—With the second size to that.

The CORONER.—The question is not the capacity of the instrument to break the stone, but its capacity to receive the stone?

WITNESS.—It could easily receive the stone. You don't want to break the stone through the middle. It is easy to take pieces off it gradually.

Mr. PURVES.—This is another lecture.

Mr. DUNCAN.—I am asked the question by the Coroner.

Mr. PURVES.—Erichsen seems to differ from you.

Mr. DUNCAN.—It is a good job.

Dr. DUNCAN.

The CORONER.—When you got these instruments back what state were they in? A.—The scoops were bent.

Q.—Had you any conversation with Mr. Webb about this operation? A—I had some conversation often.

Cross-examined by Mr. PURVES :—

Q.—I just want to ask you one question. Are you a surgeon, Mr. Duncan? A.—I am resident surgeon to the Melbourne Hospital.

Q.—That is not an answer to the question. Are you a surgeon? A.—No, my degree is medical; but we don't respect surgical or medical degrees here. We respect only a degree which makes us either surgeons or physicians.

Mr. JONES.

JOHN JONES, surgical instrument maker, examined.

By the CORONER—

Q.—You are instrument maker to the Melbourne Hospital? A.—I am.

Q.—Did you make these scoops? A.—I made one of them.

Q.—Is it of the ordinary strength and material? A.—It is.

Q.—Have you tested it? A.—I have. This scoop was made about fifteen years ago. I believe there was a pattern given when it was made, but I am not positive on that point.

Q.—Did you test the scoops? A.—I did put a test on them last night. It does not take much to bend the scoops after they are once bent.

Q.—What would be required to bend them in the first instance? A.—About 25lbs.

Q.—A weight of 25lbs.? A.—Yes.

Q.—What is the crushing power of this lithotrite (one of the Hospital lithotrites)? A.—It is a very powerful lithotrite.

Mr. PURVES.—Look at this lithotrite. You see that the first screw of the worm has been introduced into the biting portion of the instrument. Is it now biting so as to exercise its crushing power?

WITNESS.—I would commence with the third or fourth screw.

The CORONER (addressing the jury) said :—There are a number of other gentlemen here who were present at the operation. Are you satisfied with the evidence you have got, or would you like any further evidence.

The FOREMAN (after consulting his brother jurymen) said :—We have had quite enough.

Mr. PURVES.—I suppose I may address a few remarks to the jury on the evidence?

The CORONER.—Oh, yes.

Mr. PURVES. Mr. PURVES then addressed the jury as follows :—Gentlemen, you have already been, at considerable inconvenience to yourselves, engaged in a long and protracted inquiry as to the cause—the true and real cause—of the death of Robert Berth. No doubt it is a most unfortunate thing that this poor creature, after years of suffering, should at last almost die upon the table of the operating theatre of the Hospital; but that is by no means an uncommon fate with people who suffer from the dreadful disease known as stone in the bladder. Fortunately, of late years, through modern appliances, and especially from the use of chloroform and other anæsthetics, the pain of this terrible operation has been much diminished, and a new era in lithotomy established. Gentlemen, you must bear with me if I make any mistakes in the observations which I desire to address to you on this case, because up to the day before yesterday I really did not know what a lithotrite meant, and knew very little about the operation of lithotomy. I shall, however, endeavour to put the case before you in plain English, because it seems to me that I ought to speak the language of common sense to men of common sense. Gentlemen, common sense will be your best guide throughout this inquiry; and doubtless you have paid every attention to all the evidence which has been placed before you. Now, it would be idle to deny—indeed, from the conduct of the examination by the learned professional gentleman who occupies the position of Coroner it is very evident—that the whole of this inquiry is directed against Dr. Beaney. In fact, you will be asked by the Coroner, who also acts as Crown Prosecutor in this case—if you think there is any evidence whatever to support this proceeding—to return a verdict which will be equivalent to a verdict of manslaughter against Dr. Beaney. You must not mince matters; that is the plain English of it; and that is why you have been brought here. The question is whether you are to return such a verdict. Gentlemen, I shall proceed to show you that there is not a tittle of evidence—not one single ground—for forever blasting the character of a man who, at any rate, as a surgeon, holds a prominent position in

this colony. Gentlemen, don't let there be any accident with you Mr. PURVES
There may be accidents in the operating theatres of hospitals, but there should be no accident with you, who are capable of judging of the evidence which has been placed before you. And, before you begin to judge of that evidence, I beg you—I most earnestly implore you—because it is my duty to do so, to reject all the statements with regard to this case which you may have gathered from the daily prints. I say it with sorrow, that the newspaper which purports to be the leading journal of this colony, has most indecently and most improperly alluded, not only to the facts of this case, which were known to the professional gentlemen who were employed to perform, or who witnessed the operation, but also to the *post mortem* examination which was conducted within the building in which you are now sitting. Gentlemen, I say the evidence as it has come out here, as it has been elicited with great pains, step by step, throughout the whole of this protracted inquiry, does not justify the paragraph which was written and published before the inquest began. If the most diabolical enemy that Dr. Beaney has in the world, were to sit down, and, moved by the most malignant spite, were to attempt to describe the whole of the evidence which has been adduced, so as to make it appear in the most damaging way he could against that gentleman, I defy him to produce such a paragraph as the one which appeared in one of the morning newspapers before this inquest was commenced. That paragraph may have prejudiced your minds; you may have—in fact, I do not doubt that you did—come to this building with a foregone conclusion, in consequence of reading that paragraph; but I am happy to say that the responsibility which rests on my shoulders, as counsel for Dr. Beaney, has been materially lessened; that the responsibility which I felt the day before yesterday has almost vanished away, by the evidence which has been given during the inquiry. Gentlemen, it is a singular fact that, in introducing the subject of the inquest to you, the Coroner was obliged to state that he was desirous and anxious to have the *post mortem* examination of the body of the deceased performed by impartial persons. Whom did he succeed in getting to make the *post mortem* examination? Dr. Barker, a rival of Dr. Beaney—a gentleman who, no doubt, would view an operation performed by his rival with suspicion, and who would be apt to judge harshly of any mistake made by Dr. Beaney, forgetting that he, perhaps, may have

r. PURVES. made mistakes in his time. Dr. Barker is one of the persons who made the *post mortem* examination, and who is the other? Dr. Neild—a literary and dramatic critic, a gentleman without any practice in his own profession, but with a knowledge of surgery which he refused to demonstrate to you in answer to the questions I put to him, and who exhibited a temper which certainly was at variance with all my preconceived notions of what an impartial witness should be. You have to judge of a witness by his demeamour as well as by the language in which he couches his answers to the questions that are asked him; and what was Dr. Neild's demeanour? The moment I asked him a question, it was like putting a spark into a powder barrel. He would not answer a single question the reply to which would assist to enlighten you as to the cause of the death of the unfortunate man Berth! He knew all about the subject upon which I questioned him, but he would not communicate the knowledge which he possessed. He seemed to forget that he was here to inform you, to the utmost extent of his power, as to what was the cause of death. Gentlemen, I am here to help you to arrive at a true and just conclusion on that point. My duty is not to endeavour to cast round the facts of this case any distorting medium, or any false glamour, but to assist you to judge fairly of the evidence. The question which you have to decide is—Did Dr. Beaney, in the Hospital, commit manslaughter, or murder? The two terms are almost synonymous. Now I will call your attention to two or three important passages from a legal authority in regard to what amounts to manslaughter in a surgeon or physician. I quote from *Russell on Crime*:—

"And it seems now to be settled, that it makes no difference whether the party be a regular physician or surgeon or not. Thus it has been held, that if a person *bonâ fide* and honestly exercising his best skill to cure a patient, performs an operation which causes the death of the patient, it makes no difference whether such person be a regular surgeon or not, nor whether he has had a regular education or not. Upon an indictment for manslaughter, by causing death by thrusting a round piece of ivory against the rectum, and thereby making a wound through the rectum, it appeared that, upon examination of the body after death, a small hole was discovered perforated through the rectum. The prisoner had attended the deceased, but there was no evidence to show how the wound had been caused, and questions were put in order to show that it might have been the result of natural causes; and it was proposed to show that the prisoner had had a regular medical education, and that a great number of cases had been successfully treated by him."

In this case Mr. Baron Hullock, "stopping the case," as I imagined the Coroner would have stopped this inquiry yesterday, said—

"This is an indictment for manslaughter, and I am really afraid to let the case go on, lest an idea should be entertained that a man's practice may be questioned whenever an operation fails. In this case there is no evidence of the mode in which the operation was performed." Mr. PURVE

In the present case there is some evidence as to the mode in which the operation was performed; but in the case stopped by Mr. Baron Hullock there was no such evidence, and the learned judge went on to say—

"Even assuming for the moment that it caused the death of the deceased, I am not aware of any law which says that this party can be found guilty of manslaughter. It is my opinion that it makes no difference whether the party be a regular or irregular surgeon. . . . . It is quite clear that you may recover damages against a medical man for want of skill; but, as my Lord Hale says, 'God forbid that any mischance of this kind should make a person guilty of murder or manslaughter.'"

The authority from whom I am quoting adds—

"Such is the opinion of one of the greatest judges that ever adorned the bench of this country; and his proposition amounts to this, that if a person, *bonâ fide* and honestly exercising his best skill to cure a patient, performs an operation which causes the patient's death, he is not guilty of manslaughter."

Well, gentlemen, you have to consider the question of how the operation in Berth's case was conducted. One point which is made against Dr. Beaney is, that he ought to have known the precise size of the stone. Why, gentlemen, the text-books show that Erichsen, Civiale, Holmes, Cooper, Fergusson—I might go through the whole list of the great operators for stone—have all made mistakes. In fact, one man, as I read yesterday, made such mistakes in endeavouring to extract large stones, that he set about and tried to invent an instrument for crushing stones in the bladder. How is it possible that any man, even if he introduced a lithotrite, which is suggested as the instrument to measure a stone in the bladder with, could ascertain the exact size of a stone? I say it is a physical and absolute impossibility for any man, be he a Barker, a Civiale, or a Cheselden, to measure the stone which was extracted from the deceased Berth with this instrument; and I will show you why. In the first place, this instrument only bites, as the witness Jones pointed out, when the first, second, third, or fourth screw of the worm has been introduced into the biting portion of the instrument. Suppose you are feeling, not in the light of the day, but in a man's bladder, which is a dangerous operation even in itself, if the man has any predisposition towards disease—supposing you are feeling about

r. PURVES. a man's bladder with an instrument of this kind, how can you tell the size of a stone in the bladder? How is it possible you can do that? You can judge of it as a big one, no doubt, but it is impossible that you can judge of its exact size, seeing that the gauge of the instrument is only scaled to 1½ inches. Why, one of the chief causes of accident in connection with the operation of lithotomy, as laid down in *Holmes's Surgery*, from which I read a quotation yesterday, is the accidental discovery, during the operation, that the stone is of uncommon size. Now, gentlemen, the stone extracted in this case is a stone of uncommon size. I suppose it is the largest stone which was ever discovered in a man's bladder in so young a country as this. It is a stone of uncommon size, a rough stone, and likely, it may be, to injure the soft parts of the wound when being extracted. Now, gentlemen, Dr. Beaney did "sound" for stone, and it is said in the books that in sounding for stone great mistakes may be made. I read a list of cases of the kind to one of the witnesses, and I may repeat the substance of it from memory. Even Cheselden, the greatest operator who ever lived, operated three times for stone, and Mr. Samuel Cooper seven times, and with what result in those cases? Why, having sounded for stone, having examined the bladder in every part, not only with a lithotrite but with a "sound," which is a thin narrow instrument—having adopted all these precautions—what did they do? Why, the patients were trussed up upon the operating table, the operation was performed, and it was found that there was no stone in the bladder in any of these cases. Was there, however, in any case, any pretence whatever for saying that either of these great surgeons was guilty of manslaughter because he made such a terrible mistake as that? The only mistake which Dr. Beaney can be said to have made with regard to the stone in this case is that he thought it was smaller than it proved to be. Two or three witnesses have stated that Dr. Beaney said it was a small stone, and therefore he would do the median operation. Now, how can that be? Just let us look at the probabilities of the thing. Dr. Webb has sworn positively that the patient was sent from Amherst to him as a man who had a large stone in the bladder, and that he (Dr. Webb) went to Dr. Beaney and told him that it was a large stone, whereupon Dr. Beaney said—"The committee will not allow you to operate, as it is against the rules, and therefore I must do the operation myself." One cannot be very sure of a report of a conversation in the operating theatre, where a number of medical students—they

are a very gay set of young fellows, are medical students—are talking and laughing together, and commenting on the unfortunate wretch about to be operated upon, unless the report is corroborated by substantial facts. Far more reliance can be placed on the observations made in reference to this matter by Dr. Webb, to whom the man was sent for the special purpose of undergoing an operation. In fact, for the very reason given by Dr. Webb, it is impossible that Dr. Beaney can have made the remark which has been attributed to him. As to the operation itself, no one will deny that the first part of the operation—the cutting part—was properly done. Nobody attempts to deny it. Even the Coroner will not put that point to you. The question then arises—when Dr. Beaney discovered that the stone in the bladder was such a large one what should he have done? That is really the turning point in the case, and upon that I will address a few remarks to you. Mr. Purv

Gentlemen, there are two professions in which some accident may arise in the course of a case which must necessitate the immediate use of the judgment of the professional man engaged in that case. These two professions are law and physic. Gentlemen, it has been my fate—as it is the fate of many members of the bar—to have the life of a man dependent upon my action. Even now I stand before you with a grave responsibility attaching to me, and to every action I do. I may offend the jury by saying one thing; I may please them by another. I am to adopt the course which I think best in my judgment. God forbid I should say I have not made mistakes, or that I will not yet make mistakes. Every man makes mistakes. But in surgery, above all things, a man must speedily make up his mind as to what course he will adopt. A successful surgeon has often been described as a lucky surgeon—a man who, at the moment when it is required, has the nerve to do the thing which is right. Gentlemen, he may often do the thing which is wrong, and he may kill his patient. Just put this case to yourselves. Suppose that a medical man is called in to a difficult and protracted case of labour. The pains of labour have come on, the child has to be ejected from the womb, and the parts are not sufficient to allow the child to pass. Suppose that Dr. Barker, Dr. Beaney, or anybody else, is attending the woman, and that there are two lives dependent upon his action at some point of the labour. He tries every endeavour to enable the woman to expel the child, but she is unable to do it; and it comes to the stage that it is absolutely necessary he must

PURVES. do something, or the woman will die before his very eyes. He must do something to save either the woman's life or the child's life. It may be that he has to adopt the awful responsibility of destroying one life in order to save the other. Suppose that there are two or three jealous people, and, it may be, a jealous fellow practitioner, looking on, and the accoucheur adopts the responsibility of dismembering the child. Is this jealous practitioner to go next day to the detectives, and say, "I would have got the forceps and pulled the child out; I would have adopted the Cæsarian operation, or I would have delivered the woman by some other means?" Would any sensible man say that, under such circumstances, the accoucheur should be brought here weeks after the event occurred, that a coroner's inquest should be held, and that he should be charged with such a serious offence as manslaughter? Gentlemen, when Dr. Beaney arrived at the point that he found a difficulty in extracting the stone from the bladder, how do you know in what way the calculus presented itself? How did he know for the first ten minutes or half-an-hour that it was such a large stone as it proved to be? Is it not likely that it may have presented itself in this way? [The learned counsel here exhibited the stone to the jury with the smallest end foremost.] If he got hold of it as my fingers now hold it, and as he may have done, the first portion of the stone which would be visible would show that it was by no means such a large stone as it really is. It is said that when Dr. Beaney discovered that the stone was a very large one, he ought to have crushed it. In the first place, how was he to crush it? Would this thing (the largest Hospital lithotrite) crush it? I say, "No." I don't care for that effervescent young gentleman, Dr. Duncan, who came here and exhibited such solicitude about the instrument. I don't care for him and his road metal. The road metal which he crushed may be much squarer and easier to break than this stone. Moreover, he, it may be, crushed the road metal in the Hospital ward, but the operating surgeon had to crush this calculus in a man's contracting bladder. The bladder was empty, there was no urine in it; it was contracting like a glove—pressed down by the lower intestines, and kept up on the other hand by a rectum filled with hard fæces. Now what does Erichsen, the great authority, state as to operating in cases of large stone. He says:—

"The second plan, that of crushing the calculus in the bladder through the wound in the perineum would certainly be a hazardous procedure."

There is a special instrument which has been invented for that purpose, as you will see by the engraving which I hold in my hand. It is a forceps with a drill in the centre, so that the drill may go through the stone, and split it and break it up. This is the forceps now in use. There is not such an one in the Melbourne Hospital, nor perhaps in Melbourne; but, even with this instrument, Erichsen says:—

"Crushing the calculus in the bladder, through the wound in the perineum, would certainly be a hazardous procedure. The irritation that would necessarily be set up by the large lithotrite or crusher that has been invented for this purpose, by the presence of the fragments of stone, and by the necessary difficulty and delay of clearing them out of the viscus, would probably be fatal to the patient."

Dr. Beaney, in performing the operation, finds out that the calculus is of uncommonly large size; and he is to exercise his best judgment in this emergency. He has read Erichsen, and he knows that to crush the stone —even if there had been an instrument at hand for the purpose—would be a hazardous procedure. He therefore says that he would sooner try, by slow dilatation, to pull the stone through. How can you get over the authority of Erichsen, that to have tried to crush the stone would have been a hazardous procedure, and probably have proved fatal to the patient? It is impossible to get beyond that point, for Erichsen is one of the greatest authorities on the subject. Dr. Beaney exercises his best judgment. He says, "I won't crush it." He knows that it will probably be fatal to the patient to crush it, and he says, "I will use my judgment." Erichsen goes on to state:—

"In the event of its being impossible to extract the calculus through the perineum, I think it would be safer to adopt the third course, and to perform the recto-vesical operation."

Now the recto-vesical operation, and Lloyd's operation, which Dr. Beaney performed, are twin brothers. It is said by two or three of the witnesses that Dr. Beaney stated, before he commenced the operation, that he would do the median operation, because the stone was a small one. How is that compatible with his action the day before? What did he do on the previous day? Why, he went into the dead-house, where there were two dead subjects, on which he rehearsed an operation, with a view to the very operation which he was about to perform on the patient Berth. He made the students place their fingers in the wound which he cut—what for? Why, in order that they might be convinced, by actual touch, like so many medical St. Thomases, that the space obtained by the bi-lateral operation would afford no more room than that obtained by the median operation

PURVES. which he intended to adopt on the living patient. Gentlemen, does not the fact that Dr. Beaney went and practised the operation beforehand show some amount of care and some anxiety to perform the operation successfully, and to the best of his ability? Although he may have performed the operation 20 or 30 times before, yet he determined to rehearse it on a dead body before performing it on this occasion. Why, this is proof palpable that he was endeavouring to do his best in the case.

Now, gentlemen, with regard to the course which should have been adopted in connection with this stone, let us see what some of the authorities suggest. Erichsen says there is absolute danger in crushing the stone, and in the *Retrospect of Medicine*, from which I quoted yesterday, the use of a landing net is suggested. A new and powerful lithotrite has also been invented for the purpose of crushing the stone. Well, nothing of the sort was at hand, and Dr. Beaney was obliged to do the best he could in order to meet the great difficulty which confronted him. What did he do, and what did Dr. Webb do? Of course it is idle for me to disguise the fact that Dr. Webb was acting under Dr. Beaney's instructions. I don't intend to deny it. They got hold of the two scoops—one was placed under the stone in this fashion, and the other was put over the stone in this fashion. [Mr. Purves illustrated his remark by taking the two scoops, and placed one above and the other beneath the calculus.] There is only evidence of the bending of one scoop. When Dr. Beaney and Dr. Webb got hold of the stone with these two scoops they levered it out. Great stress has been laid by the Coroner upon the fact that these scoops were merely surgical spoons, and not intended to be bent. I do not like to obtrude my knowledge against that of the Coroner, who is a man of great experience in such matters, and certainly knows a spoon when he sees one; but I beg to differ from him on this question, and I will show you that there is a very important distinction between them and mere spoons. If you try them you will find that there is a number of saw-like teeth in the cavity of the instruments. What in the name of common sense are those teeth for, if not for holding purposes? Put your fingers into them and you will find that they hold. They are also for pulling purposes, and one of the witnesses said that he would use them for such. It is distinctly and positively in evidence that before these scoops were used, Dr. Beaney had succeeded in getting the stone

so that his finger could touch it. If that were the case, the stone must have been near the orifice of the wound. What more harm, then, could there be in using the scoops than in using an instrument which may be described as a pair of spoon forceps? Much importance has been attached to the fact that one of the scoops was bent, and it is said that great force must have been used to bend it. I am not a strong man—I don't suppose there is a man in this room who is not stronger than I am—and yet I bent this scoop yesterday as if it were a bit of an old teaspoon. There it is, gentlemen, you can try it yourselves. Again, according to Mr. Jones, the instrument-maker, it only required a weight of 25 lbs. to bend it. Was there any uncommon force used with the scoops? Even if there was, do we not find that uncommon force is sometimes absolutely necessary? From Erichsen it appears that in every operation for stone, if the stone be of the size of a marble up to two inches in circumference, it is absolutely necessary to use force. And, gentlemen, I think I can explain how that is the case. When you have cut down, in the way illustrated by the picture I showed you yesterday, to the prostate gland, and when you have passed through that, you get to a circular ring, like an indiarubber ring, which tightly closes the neck of the bladder. This ring contracts so as to close the orifice after the urine is voided. The prostate gland, which is a sort of key to the bladder, is not much bigger than a walnut. Through that gland has got to come the stone. Instruments and operations have been invented simply to enable the passage of large substances through the neck of the bladder, through the prostate gland, out of the wound made for the purpose of extracting it. It stands to reason that it is impossible to get any stone out of the bladder—I don't care what size the stone is—without dilatation of the prostate gland. Now dilatation means laceration and tearing, according to Erichsen. I take him as an authority. Dilatation is a comparatively modern invention. Formerly it was necessary to cut, and cutting has been again adopted; but it is a *vexata quæstio* amongst surgeons which method they should adopt—whether they should cut or dilate. Upon this vexed question each surgeon has a right to make his own election. Beaney may prefer dilatation; Moloney may prefer cutting. It is a mere question of experience and of judgment. I will read to you what dilatation means. Erichsen states it in much fewer words and in much better language than I can. He says—

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PURVES. "So, in the median operation, the prostate may be dilated to a considerable extent without opening its capsule. I have used the word "dilate," but dilatation appears to me to be an erroneous term. I believe that the prostate is not simply dilated, but partially lacerated."

Now a great surgeon, in writing on this subject, says it would be both cruel and dangerous to adopt the process of dilatation. That, however, was in the old days, before the discovery of chloroform, when the stretching of the parts must have been accompanied by the most terrible and excruciating pain. I can imagine that the agony of a man undergoing that operation, and the parts being dilated by the opening forceps or by the fingers, must have been so horrible that it was necessary to give up that portion of the operation and adopt cutting; but now-a-days, when the operation, owing to the grand discovery of chloroform, is a painless one, dilatation is again in vogue amongst a great number of surgeons. I am not to determine, nor are you, which is the better system. Doctors differ, and when doctors differ, it is not for a jury to say which is right. Both are done—there is no doubt about that. Erichsen says:—

"I have often examined the prostate in the dead subject, after it has been subjected to this process of "dilatation," and have always found its substance more or less torn. A laceration of the substance of the prostate, however, is of no consequence, and only becomes dangerous when it amounts to rupture of the capsule, when it exposes the patient to the fatal accident of extravasation of urine and diffuse inflammation of the pelvic fascia."

He goes on to say, under the head of "Manipulation of the Forceps and Extraction of the Stone"—

"In the adult, the main difficulty of lithotomy does not lie in entering the bladder, but in the completion of the operation, that for which the operation has been undertaken—the removal of the stone. And the difficulty and danger increase in proportion to the size of the calculus."

Supposing that Dr. Beaney, by diagnosis, had discovered that the calculus was only two inches in diameter, that he adopted the median operation, and that, having opened the bladder, he found there was a projection in the calculus which made it two and a quarter inches in diameter, would it be dangerous to dilate? Do you mean to say that he would not be justified in dilating to the extent of a quarter of an inch, when every text-book and writer on the subject lays it down that you can dilate these parts without danger, and that even lesions are not the most dangerous accidents? By a lesion I mean a wound which is

not the result of cutting but of dilatation or tearing, and one of the authorities says that such lesions are by no means dangerous. Erichsen goes on to say—

> "The tissues between the neck of the bladder and the perineal integuments must either be widely cut, or extensively torn and bruised, to allow of the passage of a large stone. . . . . A calculus, for instance, two inches in diameter, cannot be extracted by the median operation without the employment of great violence."

Well, gentlemen, there is no doubt that great force was used in this instance. But the question is—for after all it comes to this—do you suppose that Dr. Beaney, a man whose whole reputation depends upon his skill in these cases, would absolutely go to the trouble of sending out invitations to people to come and witness his operation if he did not intend to perform it to the best of his ability? With enemies and friends there—particularly enemies—all watching him at his work, do you suppose that he would be such a bungling idiot, to use the plainest language, as to jeopardise his position by doing anything which he did not think was for the best in such an operation? He was there as a teacher, and he did his very best. There is no doubt about it. No one can doubt that he might have pulled the stone out by main force; but the time that elapsed is a sufficient indication of his care and anxiety in the matter. What says Dr. Webb? He says that Dr. Beaney was working and working—that he tried every method in his power to get the stone out. That shows some care. How long did the operation last? Taking the computation of the young gentlemen who have been examined as against that of an experienced practitioner like Dr. Dempster—supposing their estimate of the time to be correct—the longer the time Dr. Beaney was the more care he used in trying to extract the stone. There can be no doubt about that. It is said, and it is alleged to be a vital point in this case against Dr. Beaney, that he did not have a consultation before he performed this operation. Now just let us look at this matter—let us grasp this difficulty, if it be a difficulty, which I deny. What are really the facts? This man, Berth, had been in the Amherst Hospital for 18 months out of the three years that he had been known to be suffering from stone. A letter came to Dr. Webb, who went to Dr. Beaney, and said, "I have a man coming from the Amherst Hospital to be operated upon for stone, if he can get a bed in the Melbourne Hospital." The diagnosis was made at Amherst. It was proved beyond the possibility of a doubt, so far as tests could prove it, that the patient

PURVES. was suffering from stone, and he came to Melbourne, and afterwards went to the Melbourne Hospital. Dr. Annand there passed a sound and caused him excruciating agony—such agony that he was forced to shout out. Dr. Beaney went afterwards, and, knowing nothing about the prior sounding, he examined the patient and found there was a stone. In view of the operation he was about to perform, he went straight off to the dead-house; and there, in the presence of a number of students, experimented to see how he could get the most room in order to reach the stone. Is it common sense to suppose that, at that moment, Dr. Beaney did not know that the patient had a comparatively large stone? But what man, in the practice of his profession, could ever suppose that such a monstrous deposit as this was to be discovered? What more did Dr. Beaney do? There are four honorary surgeons, and he caused notice to be sent to the other three that the operation was to be performed. How many appeared there to assist him in the operation? Not a single one. What does that indicate? You know quite sufficient of the unfortunate events which disturb the calm atmosphere, or what should be the calm atmosphere, of the Melbourne Hospital—how petty jealousies and squabbles are engendered there; and what do they eventuate in? Inquests. That is what they come to. One squabble has burst—has culminated in this inquest. What does it proceed from? Ill-feeling and, it may be, jealousy. Your attention has been called to a rule of the Hospital. Now let us see what that rule really says. It states that

"No important operation in surgery"—

Dr. Barker says this was not an important operation—that he can do it in three minutes on an average—

"shall be performed without the previous consent of the patient, if in a position to give it"—

Well, this man was sent to the Hospital for the very purpose of being operated upon for stone—

"nor unless sanctioned, on a consultation, by two at least of the surgeons"—

How on earth was that sanction to be obtained in this case?—

"except in cases of emergency."

Why the man was sent to Melbourne to be operated upon for stone. He was crawling about the Hospital grounds, bent double with the awful pain which he was suffering, passing bloody matter through the penis,

and unable to void urine except in small gushes. It was stopped by this enormous mass of stone in his bladder. Was this no case of emergency? The poor wretch was suffering from retention of the urine, and his kidneys and other delicate parts were effected. Surely it was a case of emergency to relieve a man from such a state of suffering as this. But suppose that Dr. Beaney did not hold a consultation. Suppose that he broke this rule. I believe that nearly all the rules of the Hospital are only observed in the breaking of them, as a general thing. If you look at the proceedings of the Hospital Committee, you will see that every week new rules are being proposed, observations are made on the breaking of rules, cases are brought before the committee of young gentlemen at the Hospital not keeping the prescribed hours and so forth, and censures innumerable are passed. Admitting, however, for the sake of argument, that Dr. Beaney did break the rule as to consultations, is that a reason why you should find him guilty of manslaughter? The thing is preposterous. It may be a proper subject for investigation by the Committee, or for censure by them; but it is ridiculous that it should be made a reason for the holding of this inquest. Do you mean to say that if there had been a consultation the result would have been different? Do you suppose that even if the man had been operated upon by Dr. Barker, the man who can beat Erichsen, Cooper, and all the other great surgeons—Dr. Barker, who failed to detect an ovarian tumour—it would have made one iota of difference in favour of the man? Did this man's life depend upon a consultation? If it did, he had that consultation at Amherst. The man was sent down to Melbourne specially to be operated upon for stone, from which disease he had been suffering for years. Can it be said that there was any necessity for a consultation—any such necessity as there would be in a case in which doubt existed as to whether an operation ought to be performed or not? It may have been a breach of the Hospital rules not to have had a consultation, but I do not attach any significance to that. That portion of the case is a mere drop in the bucket. The real question is, what amount of force, or, to use the very unpleasant word which the Coroner will put into every doctor's mouth, what amount of "levering" was used to get the stone out of the bladder? The Coroner is no doubt fond of mechanical studies, and insists that the stone was got out by leverage. In reality, however, it was not leverage, but

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r. PURVES. simply pressure. You can see for yourselves, gentlemen, that it was pressure that was used. Holding the stone between the two scoops you may use a force of 100 lbs. weight, and no damage will be done except that the scoops will be bent. The stone was held up by one strong man and pressed down by the other, in order to get a firm grasp of it. By pulling it up gently, after having grasped it firmly, the stone slipped out. Do you mean to tell me that Dr. Webb and Dr. Beaney could not have pulled the stone through the perineum and everything, without difficulty, if they had chosen to use sufficient force? But they did not try to do so. They simply tried to guide the stone. Dr. Webb says that if he had known the shape of the stone at the time he could easily have extracted it. It is complained that the stone was levered out instead of being crushed; but could it have been crushed by any of the instruments in the Hospital? The young gentleman in charge of the instruments says that he crushed a piece of bluestone metal with one of the lithotrites, but I would like to know what sort of a piece of metal it was, where it was picked from, what shape it was, and whether it would not crush and split like a bit of loaf sugar. But, gentlemen, do you suppose that it was possible to break up this stone in the bladder? The very turning of the screws of the instrument, opening up and tearing, may be, the bladder and the peritoneum, would make the procedure hazardous. What do the text-books say as to crushing a large stone in the bladder? What does Erichsen say? Why, he says that in most cases it would be fatal. When the critical time came, when it was absolutely necessary that Dr. Beaney should make up his mind as to what should be done in the emergency, one of the bystanders brought him this lithotrite—this thing, which I call a toy. It is not adapted for such a purpose. There is an instrument for crushing large stones in the bladder. It is a strong forceps—a very powerful instrument, with a drill which will go right through the stone and so break it up. Suppose that you were in the operating-room, surrounded with students all eagerly gazing at you. There is the table, the blood is below, and the patient is lying on the table almost on the verge of death. Every man who lies on the operating-table is almost within the valley of the shadow of death. It may be your province to pull him back again from that valley; or, by some unfortunate mistake or accident, you may send him into eternity. That is a most serious responsibility, and in the midst of it you are

brought this toy to crush the stone with. What man would trust his life to it? Would any one? Would any surgeon try to crush a calculus like this with such an instrument? How long would it take to break the stone up with such an instrument? Supposing the stone would split, which it would not, what would have been the result if it had been split? Why, there would have been jagged pieces of stone and bits of splinters scattered all over the bladder. It is true that portions of the soft outside covering of the stone came off with the forceps. Doubtless, Dr. Beaney supposed that he was reducing the stone by means of the forceps, but it turned out that the stone was altogether too large to be crushed. Gentlemen, was there any culpable and criminal negligence on the part of Dr. Beaney, in the desperate difficulty which he had to encounter, not to use the thing which was brought to him? Why, every doctor who suggested the crushing of the stone admitted that it was not a proper instrument for the purpose. Dr. Barker says he has got a proper instrument at home, but he did not produce it here when he gave evidence, and we have not seen it since. He also said that there are six lithotrites at the Hospital, and that three or four of them are all capable of crushing this stone. Now the one which was handed to Dr. Beaney was the strongest of the lot, and not one unprejudiced surgeon who has been called says that it is adapted for the purpose. If he did not crush it, what was he to do? That is the question which has been asked of different surgeons, and each one has returned a different answer. One aspiring surgeon said he would have adopted the suprapubic operation. Now you must remember that there was an immense wound—a wound necessary for the purposes of the median operation—in the man already; and he had been bleeding from that wound. Important portions of his body had been cut through and dilated; and having suffered all this dreadful operation, which must produce subsequent and consequent disorder in those parts, what is it that some think should have been done when the difficulty of extracting the stone arose? Why, that the man was to be cut across the belly, at the risk of injuring a most delicate substance—the only portion of a man's body which cannot be wounded without great danger and almost certain death. That, again, does not commend itself to your common sense. But there was an objection to the suprapubic operation which could not be rectified. All the text writers, and all the authorities on

Mr. PURVES. the subject, say that this operation must be performed with a full bladder. Now this man's bladder was empty, and could not be filled. One young doctor said—"But in this case you would be able to push the peritoneum on one side." In order to do that you would have to cut right down through the outside flesh until you got to the delicate membraneous tissue which covers the bowels and the whole of the cavity which the intestines occupy. A wound in that membrane is said by the authorities to be one of the most dangerous wounds which can be inflicted upon the human body. After the whole of the operation seemed likely to prove successful, at any rate in Dr. Beaney's humble judgment, was he then, on the very threshold of success, to turn back and adopt an operation he did not believe in—one which he did not believe to be suitable for the purpose for which it was to be applied? If a surgeon, every time he performs an operation, is to be surrounded by jealous men, with note-books in hand, watching everything he does, and if by any misadventure or mistake the patient dies, the detective police are to be communicated with and he is to be charged with manslaughter, it will be absolutely impossible for any surgeon to conduct an operation. What would be a surgeon's feelings under such circumstances? Would he dare to have anything to do with a difficult operation? If, at a time when the operating surgeon requires all his coolness and collectedness the fact were to be present to his mind—and to imperil the success of the operation—that if he made a mistake he would be liable to be prosecuted for manslaughter, that would be one of the most fearful things which could happen for humanity. A man must make mistakes. God forbid that a surgeon should, on account of any mistake or accident, be liable to be charged with manslaughter.

Now, gentlemen, what did the man Berth die of? Not one doctor has told you, and yet you, by your verdict, have to say what is the cause of death. Now, the causes of death in connection with the operation of lithotomy are manifold. Dr. Neild, although he actually came here to prove to you the cause of death, when I asked him how many great causes there were of death ensuing after lithotomy, refused to answer the question. He did not come here to be asked such questions as that. He knew all about the matter, but he refused to tell me. I wanted an answer to the question for your information and for mine. The causes of death consequent upon the operation of lithotomy are manifold. It is almost impossible to estimate them. It is said in

one book that lithotomy is hedged round with innumerable causes of death. In *Holmes's Surgery* there are tables showing the different causes of death in a number of cases in which lithotomy has ended fatally. This work says:— Mr. PURVES

"Respecting the difficulties encountered in the extraction of stone, they are almost innumerable, and must be met according to circumstances. . . . . Some surgeons, more especially recently, have recommended the crushing and breaking up of a large calculus by a lithotrite, or strong crushing forceps, or cutting it in two by appropriate instruments, and then extracting. This has been performed successfully, but great danger and risk is necessarily incurred, for the bladder is generally firmly contracted on the stone, so that the coats and mucous membrane can hardly escape injury."

From a table giving the causes of death in ninety fatal cases, you will see how manifold the causes of death are:—"Infiltration of urine into cellular tissue of pelvis, inflammation of cellular tissue of pelvis," was the cause of death in twenty-two of the cases. In this case there was no inflammation of the cellular tissue of the pelvis, and, according to Dr. Neild's statement, there was actually a fluid in the cavity of the pelvis, a portion of which was taken away. It was removed by Dr. Williams, but although he and Dr. Neild and Dr. Barker put their heads together, in order to show how very serious this case might be made to appear, the liquid was never brought here, nor was a word said about it. Would there not have been an absolute analysis of it if that would have told against Dr. Beaney? Of course there would. Amongst the other causes of death given in this table are—Pelvic abscess, 1; erysipelas, 1; from accident, 3. It is impossible to conceive that there should not be accidents in surgery. Supposing that, after the staff has been put in the wound, and the knife in the groove of the staff, some slight thing pushes the knife out of the groove, and you cut the wrong part—is a surgeon to be charged with carelessness, negligence, manslaughter, or murder, in consequence of an accident of that sort? Why, if that were the case, surgery would become impossible. From hemorrhage there were 11 deaths; pyæmia, 10; shock, 8; disease of kidneys, 8; peritonitis, 4; cystitis, 4; laceration of bladder or prostate, 4. Professor Humphry, the leading man of Cambridge in my day, and a great surgeon, once actually ruptured the bladder to such an extent that the stone went right through into the man's body. Yet that awful rupture was an accident, and no one ever heard of such a thing as an inquest being held on the man's body, or any recommendation that

Mr. Purves. proceedings should be taken against Dr. Humphry. Dr. Humphry, perhaps, was not a man who had succeeded in getting on the surgical staff of a hospital, and thereby exciting the opposition of the Barkers and Neilds of the profession. The causes of death in the other cases were:—Great size of calculus, 2; obstacle in perineum, 2; disease of prostate, 1; sacculated bladder, 2; cancer of bladder, 1; bronchitis, 2; uncertain, 3; sudden coma, 1. Gentlemen, you are asked to determine a thing which the great men by whom these cases have been recorded—such men as Dupuytren, Bryant, Teale, Humphry, and Barnard—actually could not determine, for in three cases the cause of death was "uncertain." In one case the patient collapsed—fainted away into the next world. In the work from which I have quoted this table, it is stated that—

> "Dr. Humphry records one case of great interest, in which, although but little force was used, the bladder was ruptured by the forceps, and the stone escaped through the laceration into the peritoneal cavity."

The stone, in fact, went out of the man's bladder into his belly. This is called a case "of great interest," and no doubt it is properly regarded in that light by the profession, for, dreadful as the accident was, such cases afford information which is for the benefit of our common humanity.

I will now, gentlemen, call your attention to the evidence of Dr. Neild. What is that evidence, and how was it given? Dr. Neild is a gentleman who objects to be cross-examined. He objected to me cross-examining him. He comes here with his evidence all cut and dried. He and Dr. Barker have put their heads together, and the result is brought here in black and white. Dr. Neild is put forward to read it to you, and Dr. Barker is asked "Do you concur in it?" I once knew a learned judge who obtained for himself a great reputation for ability because he invariably concurred with his brother judges, but he never gave the reason why. Dr. Barker concurred with Dr. Neild, who refused to be cross-examined; and what chance had I of eliciting further information from those gentlemen? The very evidence that Dr. Neild refused to be cross-examined about Dr. Barker concurred in. How could I cross-examine Dr. Barker about what Dr. Neild would not be cross-examined upon? It was a case of Codlins and Short—one was the physician and the other the surgeon. I could not cross-examine Dr. Neild, because he would not answer me. He wondered at me, a mere barrister, assuming to come here to talk to him, a physician, who knew all about surgery, but

would not tell us anything. I asked him why he showed so much temper, and he replied that he had no interest in the case. No one ever supposed that he had. He only represents one clique, and Dr. Beaney may represent a clique of his own. Dr. Neild examined the body. He had the gratification of seeing this dreadful mass of putrefaction, which had been buried three weeks, and which would never, in the ordinary course of circumstances, have been exhumed. If Dr. Barker had performed this operation, I don't think that you would have been troubled to come here. If any other man than Dr. Beaney had performed the operation would there have been an inquest? I am justified in assuming that there would not. I put it to you that there is something in this view of the case. If it had not been for the letter written by "A Practical Surgeon" there never would have been any such investigation. It has been endeavoured to be shown that Dr. Webb was the cause of this inquest, but that attempt is a lamentable failure. Owing to the penuriousness of the Government, who start an inquiry of this kind, and then will not send counsel here to look after it—which seems to me a most monstrous proceeding—the Coroner intimates that he has to perform the functions of a Crown Prosecutor, as well as those of Coroner, and, at his instance, a detective is called to contradict Dr. Webb, upon whose statements the whole of these proceedings are said to have been taken. Detective Duncan said that he had an interview with Dr. Webb, that he put a number of questions to him, and that to those questions Dr. Webb replied "Yes." But that is a very different thing from making a statement, which is written down and signed, as the evidence which Dr. Webb has given at this inquest has been. What did Detective Duncan know about peritonitis, lithotrites, lithotomy, or dilatation for stone? Why, all that had been pumped into him before he saw Dr. Webb. The detective went to Dr. Webb, and asked him if he would answer a few questions. He had got the questions ready to put to him pit-pat. Dr. Webb, in the innocence of his heart, answered the questions, and said that he was only a lieutenant in the matter. Perhaps he did not know that Duncan was a detective; and, when he did find that out, he wanted to get rid of him, as he did not like to have spies about his house. If Dr. Webb's evidence is to be believed, the Coroner at once admits that there is no case at all against Dr. Beaney; but he endeavours to break down Dr. Webb's evidence. He implies that it is untrue, and he gets Detective Duncan to say what Dr. Webb's evidence should be.

PURVES. Is it fair to bring a man here on a charge of manslaughter, and afterwards to turn round and charge one of the witnesses in the case with perjury? That, however, is on a piece and parcel with the whole of this investigation. Dr. Neild, in his written statement, says :—

"There was a wound with roughened edges in the perineum in the middle line of the body. It extended forward from the back of the fundament. Its length was 3⅞ inches, and its greatest breadth 1¾ inches. A probe introduced at the upper part of this wound, and pressed downwards, passed freely into the rectum."

From the drawing which you saw yesterday you know it is absolutely necessary that there should be a passage into the rectum, in order to get room to extract the stone. It is called the recto-urethral operation. It means that the rectum is to be cut. In the course of getting the stone out—in the course of dilatation, which means laceration—this cut is forced wider open; or, in other words, it tears. In protracted labours, where there is a difficulty in getting the child from the parts, this frequently happens. If you ask the first accoucheur you meet whether in his experience he has ever known extensive laceration of the rectum, he will tell you that he has not only known one case but many cases, and that the patients have recovered. The books say that a lesion is not necessarily fatal; there must be something else to cause death. Now, when Dr. Neild made the *post mortem* examination, what state was the body in? It was putrefied and swollen—swollen with gas and in a state of active decomposition. He says in this precious report—which cannot be cross-examined, because he will not let me cross-examine him upon it, and which is to go in complete and intact—that there were ragged edges to this wound. Directly putrefaction set in, these soft parts would become softer and softer—they would become quite friable, and the edges would necessarily crumble away. This does not take place all at once, but gradually, like a bit of ice melting in the summer's sun. Do you mean to tell me that the wound presented the same appearance three weeks after the body had been buried that it did when it was first made? If there was to be an inquest, why was not the inquest held at the time that the man died? If Dr. Williams, who was at the operation, made notes and communicated with the detectives, why, in the name of goodness and common sense, did he not take the lithotrite and crush the stone if he believed that ought to be done in order to save the man's life? Why did he not say—"I will not stand by and see the man murdered"? He did not do anything of the kind

but he went away to his private room, wrote out his notes, and caused them to be filtered through Dr. Webb, by the help of Detective Duncan, and Dr. Beaney is brought here to gratify some spirit of I don't know what. Perhaps it is in order that Dr. Williams may force his own way up the ladder while another man is forced down. How do we know what his object was? We do know that Dr. Barker and Dr. Neild went away from the *post mortem*, without giving notice to Dr. Beaney that they were going, to hold a secret meeting with Dr. Williams at Dr. Barker's house. At that meeting some of the parts of the body were further examined, and the whole of the evidence as to the results of the *post mortem* was arranged. That is not the way in which inquiries should be conducted in order to arrive at the truth between man and man. It savours rather of getting up a criminal prosecution. The Coroner, who is himself a physician, gets hold of lecturers at the University, who come here with prepared statements which cannot be properly cross-examined. These men—Dr. Barker, Dr. Neild, and Dr. Williams—apparently associate themselves together in order that they may try and shake Dr. Beaney from the eminence he has climbed to; or, to adopt the expressive phrase used upon one occasion by Mr. Francis, late Chief Secretary of the colony, to "throw him over the top of the monument," in order that some mere pigmy practitioners may climb up into his place.

Now was the patient, Berth, a healthy subject? Had he any organic disease? Dr. Neild's own report shows that he was a subject upon whom, of all men, the operation of lithotomy was likely to be dangerous and almost inevitably fatal. It says—

> "There were some old adhesions of the peritoneum at the lower portion of the large intestine, on the left side."

This at once shows that there was some disease, some dreadful and lurking disease, which no surgeon, however able, could determine. It was a disease of this kind which killed one of the greatest men of modern times. It is a disease which it is absolutely impossible, by any diagnosis known to the medical profession, to determine whether it exists or not. This disease in all probability did exist in this unfortunate man. It is known by the technical name of "surgical kidney." "Surgical kidney" is like a slumbering and smouldering fire lying at the seat of a man's life which may be stirred up by the slightest operation. By the simplest thing the fire may be kindled which will burn the man's life out. Perhaps the very act of Dr. Annand, in passing a sound into

URVES. the bladder, was the very first thing which stirred up this fatal disease, "surgical kidney," in this unfortunate man. What is Dr. Neild's statement in regard to the kidneys? He says—

"The left kidney, on one section, was seen to be of a deep claret colour."

Think of a kidney in that state!

"The left ureter, especially at its entrance into the bladder, was much congested."

A ureter is an organ in the immediate vicinity of the kidney—the tube from the kidney to the bladder—which frequently is a source of disease, and by which stones that form in the kidney sometimes pass into the bladder, causing great disturbance, and sometimes resulting fatally. Dr. Neild says—"The right kidney was highly congested;" which means, gentlemen, that it was a burning flame at the root of this man's life. Who can tell when that began? Who knows that it may not have been smouldering during the three long years he was suffering from stone in the bladder, and walking about crouched together from the fearful pain that he was suffering. Do you suppose, gentlemen, that this man, walking about with this awful calculus pressing on one of the most delicate and susceptible organs of the human frame, was not prone to death? Is it possible that such a monstrous calculus as this could accumulate in any one corner of the human frame without affecting the whole of it? Some of the witnesses say that the unfortunate man was in good condition, and others say that he was emaciated. Is it possible that he was in a good state of health when it was necessary to remove this huge stone from him? What does Dr. Neild say was the cause of death? "I believe the cause of death to have been shock,"—and, gentlemen, surgical shock, to use my own language, in these operations, is a very frequent cause of grave apprehension to the operator, and sometimes of death to the patient. Shock has to be met by reviving the energies of the patients with hot bricks, the administration of stimulants, and such other meansas were adopted by Dr. Beaney in this case. Dr. Neild says—

"I believe the cause of death to have been shock from injuries received during the operation, with consequent inflammation of the bladder, ureters and kidneys, and peritonitis."

Now, gentlemen, is there the slightest evidence to show that the inflammation of the ureters and kidneys, and the peritonitis came from this particular wound? May it not have proceeded from the passing of the

"sound" by Dr. Annand, or from the "sound" introduced by Dr. Beaney? Was the cause of death, shock? Was it accident? Was it peritonitis? Did it result from surgical disease of the kidneys? Did it result from pyœmia? What was it from? Which one of these causes is death attributable to? I think you will say that the operation —in addition to the stone being a large one—was an operation performed on a man who was suffering from a chronic disease at the time it was undertaken. Dr. Barker certainly gave his evidence after a much more satisfactory fashion than Dr. Neild. I must compliment him by saying that, although he showed some temper under cross-examination, it was not of the offensively reticent character of Dr. Neild's. Dr. Barker says he thinks a bigger stone can be taken out by the median than by the lateral operation. Yet he says that he would have adopted the lateral operation. Why, gentlemen, it is a mere question of opinion. I believe that if you were to collect all the surgeons in Collins-street with a drag-net, and pull them into this building, and ask them their opinion upon the evidence before you, not two of them would agree. They have all got their little idiosyncracies, just as every man whoever addressed a jury has got his little tricks of rhetoric. They have all got their little knacks. Whether it be a Barker, a Gillbee, or a Beaney, each one has got some little method of performing an operation, upon which he agrees to differ with his fellow practitioners.

Mr. Pu

Gentlemen, you have listened to me with great attention, and, in conclusion, I will only address a few further remarks to you. The gravest responsibility in connection with this case, gentlemen, rests upon your shoulders; because you, like a surgeon in the operating theatre of a hospital, have at your command the whole future of a living man. It is not a mere question of destroying the body of a man and allowing his soul to go to another world. Dr. Beaney may be said to have done that by mistake or by accident, but you, gentlemen, by your verdict, may consign a man to a living death. There is no doubt about it. If by your verdict you say that Dr. Beaney was criminally negligent; that, in the face of men, and in the open light of day, he so prostituted and degraded the noble profession he is master of, and the energy and skill he had a right to give to this unfortunate man; if you say that by criminal carelessness and negligence he did away with the man's life, directly you return that verdict Dr. Beaney is morally damned for ever, his profession is gone from him, he is a pariah and an outcast from his

URVES. fellow professional men. You have this grave responsibility upon you, and I, gentlemen, have an equally grave one upon me, because I have to stand between Dr. Beaney and those who are following him with such tenacity. In former days it was possible to have secured the services of those eminent advocates who have since "gone to join the majority," but in these days it is impossible to secure such men. Therefore, you must fully understand that I feel the grave responsibility which devolves upon me to the utmost extent that is possible. Gentlemen, I ask you to aid me. You will have the main circumstances of this case placed before you by the Coroner, who, as a medical man, is far more qualified to deal with it than I am, and he will be able to point out to you any little things which may have escaped me, and which may, therefore, seem to your minds to have some force. I ask you, gentlemen, to help me, because you have heard all the evidence, and it is impossible for any one man, be he whom he may—it is impossible for any advocate who may be brought here—to carry in his mind all the numerous points that there are in this most remarkable case. I can only grasp the salient ones. When you retire to consider your verdict, if there is any point which may have escaped me, I hope that you will fully consider it, and not, because an advocate forgets it, think that he has passed it by designedly.

I am afraid of occupying your time; I know the season of the year, and I am unwilling at any greater length to detain you from your homes. You were brought here I don't know how, or upon what system. You have been apparently brought from all districts—one from each street. The usual rule in summoning a Coroner's inquest is for the Coroner's officer to get together the first dozen or fifteen men he can come across; but I am glad that that plan has not been adopted in this instance, because I see before me a body of men of more than usual intelligence. I ask you to give me and to give my client the benefit of your assistance. It would be preposterous to doubt—there is no doubt—at whom these proceedings are pointed. There is no doubt, I say, to whom these proceedings point, and I stand here as his representative. You can see my brief, gentlemen; it consists of blank paper. I knew nothing of what evidence was to be brought forward. It may be that, had I known what evidence was to be given, I would have brought witnesses here, or caused them to be brought at my desire. But what is the necessity for it? When the Coroner is obliged to discredit his own

principal witness, and to bring a detective here to say that the evidence he gave is not true, what necessity is there for me to call witnesses? You have got the whole facts before you. Although it is impossible for me in the few hours which I have been able to devote to this case to thoroughly master and bring together all the knowledge which might be collected from the evidence which has been given, it is perfectly clear from that evidence that Dr. Beaney did not violate one leading principle of surgery. There can be no doubt about that. A mere error of judgment, if there was one, is not to be brought in judgment against him. You are not to say that he committed manslaughter if he made a mistake. I think that, on the whole facts of the case, even the authorities of the Crown will admit—I am sure that if they had any mouthpiece here they would admit it—that they have made a mistake in these proceedings. The deceased, when once taken to his long home ought to have been left there, and you ought not to have been brought from your earthly homes in order to make a protracted investigation as to the cause of his death. Gentlemen, these are the remarks which I have thought, in the limited time I have had at my command, that I should place before you. Had I had a longer time for preparation I might have made a more elaborate speech. Have I a good case to go to you? I think I have; and that absolves me of much of the responsibility which I would otherwise feel. I say that this case throughout is a *fiasco*. Dr. Beaney may walk forth from here, with your verdict in his favour that he is a reliable surgeon, and a fit and honest man to be entrusted with the great functions which his profession gives him. He may go back again to that great institution, the Melbourne Hospital, without any ban upon him—with your verdict that he ought not to take his trial upon a criminal charge for what, at the very utmost, is an error of judgment. Criminals are not recruited from such men as he is. He is above that suspicion. In the operating theatre he used his best endeavours, under circumstances of emergency, in order to save the life of the unfortunate patient upon whom he was operating; and I have no doubt that you will absolve him from any negligence or carelessness in the case.

Mr. Purv

The CORONER then addressed the jury. He said—Gentlemen, this case is no doubt one of great interest to the persons connected with it, but the facts are very simple. The deceased, who was in a hospital up-

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CORONER country, was sent down to Dr. Webb for the purpose of being operated upon for stone. He was placed by Mr. Webb under the care of Mr. Beaney, in the Melbourne Hospital, and there was operated upon by Mr. Beaney, assisted by Mr. Webb. One of the rules of the institution says distinctly that no important operation, except in cases of emergency, shall be performed without consultation. This is a very wise and proper rule, and is intended to provide that every patient upon whom a large operation, such as this, is performed shall have the benefit of the advice of the four surgeons who are appointed honorary surgeons of the Hospital. That very wise mode of proceeding was not adopted in this case. Mr. Beaney, as the man was sent there for the purpose of being operated upon for stone, ascertained that there was a stone, and there seems to have been nothing else ascertained about the case. The state of the man's health, apparently, was never taken into consideration; no consultation was held so as to ascertain the size of the stone; no analysis or examination was made of the urine to ascertain whether the man had active disease of the kidney or not; and no consultation was held, as there should have been, as to whether, in the first instance, it would be better to extract the stone or to break it up in the bladder. Had it been proposed to crush the stone, it could have been ascertained at once, by the lithotrite, that the stone was of great size, and that would have been some information as to how the future operations should be proceeded with. None of these things were done. It is not disputed that they were neglected. It is for you to say, upon this evidence, whether you think there was gross and criminal negligence on the part of Mr. Beaney. There must be gross and criminal negligence on his part in order to justify you in returning a verdict against him, for a surgeon must not be accused of manslaughter, and put upon his trial, simply because he is unsuccessful in an operation and the patient dies. And very properly so. There is no man in the world that has ever practised medicine or surgery who has not, by some mischance, killed a patient, either by not ascertaining the particular disease under which he was suffering, by not treating it properly, or by some other mistake. There is no doubt that every medical man who has ever had any practice has caused the death of a patient, or more than one; and it would be monstrous—in fact, no man would practice medicine or surgery if such were the case—that a medical man should be liable to be tried by a jury if a patient dies in consequence of some mistake he makes. What the law requires is

that every medical man shall bring to his occupation an ordinary amount of skill and intelligence. He is not expected to have an extraordinary amount. If you employ a bricklayer you expect that he is capable of laying bricks, but it is not necessary that he should be capable of turning arches. That is the occupation of a superior grade. So in this instance. An ordinary medical man would be expected to bring ordinary skill and knowledge to bear. If in a case of lithotomy, he met with an unexpected difficulty, and failed in extracting the stone, that should not be urged against him; but Dr. Beaney is a man who turns arches; that is to say, you have a right to expect from his elevated position—the position he has voluntarily placed himself in—as Senior Honorary Surgeon of the Hospital, that he will bring to bear extraordinary skill and knowledge. Therefore, you have a right to judge him in that light. You would expect from him that amount of skill and knowledge which you would not expect in an ordinary practitioner. He is expected, in point of fact, to turn arches. You must expect to find him a surgeon of ability and of resource, capable of meeting difficulties which you would not expect an ordinary practitioner to overcome. In that light you must judge this case; and you will have to say whether the evidence discloses gross negligence or carelessness. The man was brought to the Hospital; a "sound" seems to have been passed by Dr. Annand in a perfunctory sort of way; he ascertained that there was a stone, and an entry was made in the case-book that the stone was of good size and with rough edges. That seems to have been all that was said about it. Mr. Beaney also ascertained that there was a stone, and that is all that he did. Mr. Webb told Mr. Beaney that it was a large stone, but no attempt was made to ascertain whether it was or not, so far as the evidence shows; nor was there any examination made of the patient to ascertain the state of health he was in. There was not even the necessary injection to clear out the rectum. It was ordered, but not given, because, it was stated, that his bowels had been open. Mr. Beaney told Mr. Annand, and Mr. Annand trusted to somebody else, and so the thing went on. Now, the object of having a consultation is to make sure that all these things are done. I have had it in evidence before me in another case that Mr. Beaney was acquainted with the rule for calling consultations, and had called consultations in certain cases, though sometimes he did not. Although there is, I believe, some squabble in the Hospital, he has always had a sufficient

The CORONER number of the staff at the consultations to form a quorum. It can readily be understood that the other honorary surgeons, though receiving notice of the operation, would object to go and stand by and see the operation performed, and thus, to a certain extent, be responsible for what was done, when they had not been consulted as to the nature of the operation. In this case no consultation was called, and on that account, I apprehend, the other honorary surgeons stayed away from the operation. Mr. Beaney was, therefore, deprived of the advantage that he would have had if Mr. James, Mr. Fitzgerald, and Mr. Howitt had been consulted. They are all surgeons of eminence in this city, and had they been consulted and been present when the emergency in this case arose, Mr. Beaney would have had the benefit of their assistance and experience. If the operation had been conducted under their advice, in consultation with Mr. Beaney, it would have been utterly impossible for any charge to have been bronght against any person. If, in that case, the patient had died, and the matter had been reported to me, I certainly would at once have refused to hold an inquest. If the operation had been performed in the presence of four of the principal surgeons of this city, or of three of them, or two of them, I would have taken it for granted that everything possible had been done for the man; and I would not have thought it wise or proper to disturb the welfare of all the patients in the Hospital by holding an inquiry. No doubt it is a very serious thing to do anything which may tend to shake confidence in the skill and care with which operations are performed at the Hospital.

It is for you, gentlemen, to say whether you think that in not calling a consultation in this case, as it was his duty to do according to the rules, Mr. Beaney was guilty of gross and palpable negligence. It must be nothing short of that. You must be satisfied in your minds that he was guilty of gross and culpable negligence, and that the man lost his life in consequence. That is the point upon which you must be satisfied. If you think that this man lost his life in consequence of the operation, and that there was gross and palpable negligence on the part of Mr. Beaney, then you will say so. You must have evidence to bear out that view of the case before you can return such a verdict. As to the operation itself, you have had it described by a great number of witnesses, and they have described it in much the same manner. The bulk of the evidence goes to show that the operation, so far as the

cutting part is concerned, was properly done. The bladder was got into in the usual way, and up to the time of the stone being seized the operation was as properly and fairly performed as any surgeon would have done in it. Then came the difficulty. The stone, the moment the forceps were put in, was found to be a very large one. Mr. Beaney tried several times to extract it with the forceps, and failed. The forceps slipped, and a portion of the stone came away. It was then suggested by Mr. Webb and Dr. Moloney that he should try and crush the stone, and an instrument was taken out of the case for that purpose. No attempt was made to crush it, and Mr. Beaney said he preferred to take it out whole, if possible. Mr. Beaney has not given evidence himself—he has not been called upon to do so—but the stone, it is said, appeared to be so nearly out several times that he thought that with a little more exertion, a little more dilatation, it would be got out, and therefore he did not attempt to crush it. No attempt, however, was made to crush it, although some of the surgeons suggested that it should be crushed. I saw a case recorded the other day of an American surgeon who, having met with the same difficulty—having met with a stone so large that he could not extract it without using a force he deemed to be dangerous to the patient, cut down to the stone by the suprapubic operation and so removed it, and the patient lived. It is contended by Mr. Beaney's counsel that it would have been very dangerous, and probably fatal, to have done that in this case—that a wound of the peritoneum is a most dangerous wound. Now there is an operation similar to this which is performed constantly, and which is not very often fatal. It is an operation for the removal of an ovarian tumour. The belly is opened from the navel down to the private parts, and by that means a tumour twice as large as my head may be extracted. This is an operation which is constantly done. The late Dr. Tracy performed it several times. I apprehend that Mr. Beaney would have had no difficulty whatever in performing the suprapubic operation. That is to say, he could have set to work and cut down with perfect safety without injuring any part of the intestines—he could have cut into the bladder, contracted as it was, on to the stone with perfect safety, so far as the operation was concerned. It is for you to say whether you think that Mr. Beaney, when he found himself in a difficulty, should have performed this operation. Judging him by the standard I have set up, was he guilty of

The CORONER

The CORONER gross and criminal negligence? That is the point you have to determine. There is no doubt, from all the evidence which has been given, that great force was used in extracting the stone. I look upon it that a surgeon of Mr. Beaney's eminence should know the amount of force that can safely be applied in an operation of this kind. Great force, no doubt, can be used with impunity in extracting stones. Any person who has ever extracted a stone, or seen a stone extracted, must know that considerable force is used in the operation; but there is force and force. Every surgeon knows that great force in such parts as the bladder, the prostate gland, and the ureters will almost invariably prove fatal to the patient. The question is—Did Dr. Beaney, as a surgeon of the standard which I have set up for him, use a force which he must have known would be fatal to the patient? If you think that he was guilty of gross and culpable negligence you will say so. There is no question that one of the scoops was bent in getting the stone out. That is not an instrument which should have been used for a lever, and no doubt to bend it required considerable force. You have heard the evidence, and it is for you to say whether you think that force was greater than should have been used. You must take a common-sense view of the matter, and not decide it by the evidence of one man or another. Mr. Purves has certainly conducted the case of his client with great skill, and in a wonderfully clever manner, considering the short time he had to get it up. But you are the sole judges of the matter, and you must, as I say, look at it from a common-sense point of view, taking into account both the demeanour of the witnesses and the manner in which they have given their evidence. Was the force which was used so great that a surgeon of Mr. Beaney's ability and position must have known that it would prove fatal to the patient? And, under the circumstances, should he have desisted and tried some other operation —the suprapubic, or any other? Should he, in preference to using the force he did, have enlarged the wound by additional cutting? That is a point which is a vexed question, but still it is one which you must take into consideration. If he should have tried some other means to extract the stone, and did not, did his neglect come within the scope of criminality?

With reference to the cause of death, Dr. Neild described the kidneys to be in a state of acute inflammation. Any person of common sense, though he may not possess any special information on the

subject, must know that as the ureters, the bladder, the prostate gland, and the kidneys are all connected together, any injury to any one of them might affect the others. I think the most violent pain you can possibly suffer—and I have had the misfortune to suffer from it myself—is that which arises from the passing of a stone from the kidney into the bladder. As all these parts are connected one with the other, you can easily understand that the extraction of this large stone from the bladder, and the tearing of the prostate and the rectum, would set up so much inflammation that although the kidneys were not inflamed at the time, they might become so from the result of the injury. One of the most common causes of death in connection with operations for stone is inflammation of the kidney. Mr. Purves had referred to a disease called "surgical kidney." I should like to know, genltemen, whether any surgeon has ever discovered surgical kidney in a patient before operating upon him. I think that surgeons are the only persons who ever hear about surgical kidney. Surgical kidney, in my opinion, is to a surgeon exactly what the cat is to a domestic servant—it is the cause of a great deal that cannot be accounted for otherwise. I fancy that this new idea of a surgical kidney is very often started when persons die after an operation of this kind, although the two things do not stand towards each other in the relation of cause and effect. It is quite easy to comprehend that in an operation for stone performed by the most able surgeon, and without any difficulty at all, there may, from the intimate connection with each other of all the parts to which I have referred, be inflammation set up in the kidneys. In this case no attempt was made to ascertain whether there was disease of the kidney or not.

The Coroner

I have now, gentlemen, put the leading facts of the case before you, and you must judge of them by the light which I have already stated. You must expect from Mr. Beaney, as Senior Surgeon of this Hospital, a skill and a readiness of resource which you have no right to expect from an ordinary surgeon. At the same time you must understand that all surgeons, like everybody else, are liable to err; and because this case was unfortunate for him you are not to press hardly upon Mr. Beaney. You must be perfectly satisfied that the case shows a total recklessness, a total disregard of this man's life, a total want of all the care and precaution which every surgeon should take, before you can say there was such gross and criminal negligence as to bring him within the purview of the

The CORONER law. A great deal has been said—and necessarily said, no doubt—as to the way in which this case has been brought forward. I felt a difficulty when the case was sent to me by the Minister of Justice. Of course before an inquest could be held some preliminary inquiry must be made. The detectives were employed for that purpose, and went about and collected the evidence upon which the Minister of Justice acted, and thought the matter ought to be set at rest by holding an inquest. I had the greatest difficulty in getting persons to make a *post mortem* examination of the body. I applied to Professor Halford. I think that a man in his position—the Professor of Anatomy at the University—should have sacrificed some little time, and devoted some little trouble to perform this great public duty, but he positively refused, saying that he was going out of town. Dr. Lawrence, the Demonstrator of Anatomy, was out of town, and I could not get him. I applied to Mr. Rudall, the Pathologist at the Hospital—a very excellent surgeon—and he positively refused. I then took, without reference to anybody else, the Professor of Surgery and the Professor of Jurisprudence, and they made the *post mortem* examination. You can judge how they gave their evidence. It seems to me they gave it very fairly. I do not think their evidence was pressed unduly against anybody; but that, as a whole, it was very fairly given. I thought it right that Mr. Beaney should, under the circumstances, have the full advantage of every legal assistance that could be given to him. I could have refused to allow Mr. Purves to appear and be heard here, but I did not think it was right to do so. No doubt Mr. Beaney was pointed at, and I thought it right that he should have every advantage of professional assistance. I have certainly been under some disadvantage myself, because, inasmuch as the Crown did not think it proper to send any person here to represent it in this case, I have had a double and a very difficult duty to perform. I repeat that I do not think the medical evidence has been pressed one way or the other against Mr. Beaney. It is for you fairly and honestly to consider the evidence which has been given, and to find your verdict upon that alone. You must be satisfied that Mr. Beaney was guilty of nothing short of culpable and criminal negligence before you can return a verdict against him. If you are not satisfied on that point, you will say that this man died from unforeseen circumstances, which may arise at any surgical operation, and for which no person is criminally liable.

The room was then cleared of all persons except the jury, who remained in consultation about one hour and a-half.

At the end of that time, an intimation was conveyed to the Coroner that the jury had agreed to the terms of their verdict.

On the Coroner re-entering the room,

The FOREMAN of the JURY handed him a written paper.

The CORONER (looking at the document) said—You do not find the cause of death. This seems to be, as it were, a rider.

The FOREMAN.—We are not in a position to agree as to the cause of death. The medical witnesses themselves are not agreed as to that.

The CORONER.—At all events you can say that the deceased died in the Melbourne Hospital on such a day.

The FOREMAN.—There is no objection to that.

The CORONER.—Then I will read the verdict:—

"That the deceased, Robert Berth, died in the Melbourne Hospital on the 5th instant. We are of opinion that evidence has not been brought before us to prove Mr. Beaney guilty of culpable negligence at the operation. Still we are of opinion that, had a consultation been held by the honorary surgeons, in all probability other means might have been used in extracting the stone; and we enter our protest against the rules of the Hospital being broken."

Is this your verdict, gentlemen?

The FOREMAN.—Twelve of the jury agree to that, and three object to it on the ground that it is not strong enough.

The CORONER.—I want only the verdict of twelve.

The proceedings then terminated.

[*The following is Mr. Beaney's clinical report, with a commentary on the case, and would have been given as his evidence, had he been called upon (which he was not), although subpœnaed by the Crown:*—]

ON A CASE OF LITHOTOMY WHICH TERMINATED FATALLY THE THIRD DAY AFTER THE OPERATION,

By JAMES GEORGE BEANEY, F.R.C.S.,

Senior Honorary Surgeon to the Melbourne Hospiatl,
Lecturer on Clinical Surgery, &c.

Robert Berth, aged forty-one, was admitted into No. 18 surgical ward on the 26th day of November, 1875, under my professional care. The antecedent history of the case was furnished by Dr. John Holden Webb, Senior Assistant Honorary Surgeon to the Hospital, who informed me that the patient, who was in a very weak state, had, before coming to Melbourne, been an inmate of the Amherst Hospital for a long time, suffering from stone in the bladder. It was believed by the surgeons of that institution that the stone was of good size. The man was sent down to him (Dr. Webb) with a request that he would operate as early as possible; but as the assistant honorary surgeons attend to the out-door patients only, he sent the case into the Hospital, under my care; and at the same time he informed me that he thought the stone was rather a large one. On the 30th of November, accompanied by the house surgeon, dressers, and medical students, I examined the patient. He was thin, pale, and haggard, very little appetite, great thirst, and his pulse was 90, weak and compressible. I introduced a sound into the bladder, and found that viscus thickened and contracted containing a stone, which I at once diagnosed as a large one. There was also evidence of an old stricture. When touching the calculus with the sound I invited some of the young gentlemen present to feel its presence in the bladder, but the poor man begged of me to spare him that ordeal, as he had been so much hurt by the resident surgeon the previous day. I then withdrew the staff. He was ordered as much nourishment as he could take, and I told him the sooner the stone was removed the greater would be the chance of his recovery, and that I would operate on him the 2nd of December, being operating day. On the 1st day of December I requested Dr. Annand to see that the patient's bowels were well cleared out by an enema before the operation was undertaken.

On Thursday, December 2nd, the man was brought into the theatre for operation, the resident medical officers, students, and several surgeons being present. Before the patient was placed upon the table, I asked Dr. Annand if he had thoroughly emptied the bowels, to which he replied, "I have well cleared them out." Chloroform was then administered by Dr. Lewellin, the resident physician, and he was at once secured in the lithotomy position. The perineum having been shaved, and having also ascertained there was plenty of urine in the bladder, I introduced a curved lithotomy staff, with a wide and deep groove, into the bladder, which was there held firmly and steadily by Dr. Webb, my honorary assistant surgeon. Seating myself immediately in front of the perineum, I introduced within the anus a silver speculum with a fissure in its superior surface; a scalpel was then plunged into the mesial line of the perineum, about an inch in front of the anus, and made to cut its way into the fissure of the speculum, thereby dividing in one cut the angle formed by the junction of the perineum and rectum; withdrawing the speculum, I then dissected upwards and inwards until the knife entered the groove in the staff at the membraneous portion of the urethra at the anterior border of the prostate: having divided this in its whole length, I introduced a large silver director into the groove of the staff along which it was passed into the bladder. Dr. Webb was then requested to withdraw the staff, and using the director as a guide, my finger was introduced into the bladder. Dilatation of the prostate and deep perineal fascia was most satisfactorily accomplished, the lithotomy forceps introduced, and the stone seized; but finding the stone to be larger than it was at first suspected, I cautiously dilated the prostate still further by opening the blades of the forceps, when the stone was again seized, and steady traction made, which resulted in the forceps slipping and bringing away in its grasp large portions of the surface of the stone of the triple phosphate formation. At this critical juncture the suprapubic operation presented itself to my mind, but the idea was at once abandoned for the following reasons:—first, the calculus was an unusually large one, the bladder was empty and firmly contracted on the stone; secondly, that to have performed another operation through the abdominal wall, and have cut open a bladder already much thickened and inflamed, would inevitably have proved fatal. Many attempts were then made to slowly and carefully remove it, but with the unvarying result of slipping of the forceps and the removal of further portions of the stone's

surface, and this slipping of the forceps took place at the orifice of the wound, where the calculus could be actually observed and felt with the finger. At this stage several gentlemen brought me the ordinary lithotrites to crush the stone with. The absurdity of such a proposition was at once apparent, and Civiale's stone-crusher did not enter into the surgical armamentarium of the Melbourne Hospital. Finding that the difficulty arose from the repeated slipping of the forceps, I passed a lithotomy scoop beneath and behind the stone, and at the same time Dr. Webb introduced a second above and behind, so that the two scoops met immediately behind the calculus, and it was pulled out and fell on the floor. It proved to be a large uric acid calculus, encrusted with triple phosphates, of an irregular shape, and weighed six and a half ounces. In its long diameter it measured three inches; in its short diameter it measured two inches and three-quarters, and it was two inches thick. Its shape was something like a kidney, depressed in the centre, where the forceps had detached some of the outer strata. A large catheter was introduced into the bladder, and that viscus was injected with warm water, which freely returned through the perineal wound, and thereby washing the bladder well out. He was then removed to bed, and some morphia was given hypodermically. Beef tea was ordered to be given at regular intervals, and as much champagne as he could drink.

At nine o'clock the following morning I saw him, and he appeared in good spirits; said he had passed a tolerably good night, although the house surgeon had substituted brandy and lemonade for the champagne ordered by me. The urine flowed freely through the perineal wound his pulse was 90, soft; expression good; no tenderness or tympany about the abdomen; no vomiting; temperature normal. As the symptoms far exceeded my most sanguine expectations, I instructed the resident medical officer to give him his best attention, and to report to me at once if any unfavourable change took place. On Sunday, the 5th of December, I visited the Hospital, and inquired of the house surgeon (Dr. Annand) if the patient who had been operated on for stone was progressing favourably? He replied, "He was not very well this morning, but he is much better this afternoon." I visited him in company with Dr. Annand, and saw at once that a fatal change had come over him. His pulse was rapid and feeble. He had vomited through the day, and his countenance was decidedly hippocratic. His voice had gone to a whisper. There was tenderness over the abdomen;

he complained of pain in the lumbar region, and his feet and hands were cold. Very little urine was secreted, and, therefore, the quantity escaping from the wound was small. No stimulants had been given him because he did not like them, but when asked by me what he *would like*, he replied, "Port wine." I ordered as much port wine as he could take, beef tea, hot bottles to his feet and spine, a mustard and linseed poultice over the whole of the abdomen, and as he was vomiting and his bowels had not acted, I gave him a full dose of calomel, so that if he vomited afterwards he could not throw the whole of it up. He, however, gradually sank, and died about eleven o'clock p.m. On my next visit to the Hospital I drew the attention of the students to the uncertainty which surrounded the immediate cause of death. There was a total absence of the symptoms one would expect to find after the removal of so large a stone. There was no urinary extravasation. There was no shock, as he appeared comparatively well the day after the operation, and he had no symptoms of pelvic mischief whatever. The *post mortem* examination at once set at rest the question as to the cause of death. Acute pyleitis, or surgical kidney, was found to have been the cause of the fatal result.

COMMENTARY.—This man was sent down from the Amherst Hospital by the surgeons of that institution to be cut for stone in the bladder. It was said by them to be a large one; and Dr. Webb, who had also examined the man, informed me that the stone was of good size. After the man's admission to the Melbourne Hospital, I satisfied myself that there was a calculus in the bladder, and that it was a large one. The lithotrite was not used to measure the stone as I at once concluded, when examining with the sound, that it was not a case, from the size of the stone, for lithotrity, and that lithotomy was the only operation which held out any hopes of relief. No attempt was made to ascertain the state of the kidneys before the operation was proceeded with, on account of the absence of distinct and significant symptoms, especially when the stone is of good size and the bladder has been subjected to years of irritation from its presence. Sir Henry Thompson truly observes (*Lancet*, March 8th, 1873, p. 332):—

"It must be admitted that at present we have not an unfailing means of ascertaining the existence during life of these conditions. There may be no albumen in the urine, and not necessarily are there any deposits significant of the renal affection. The

urine of a calculus patient frequently contains mucus, pus, and blood; but whether the origin of these is in the bladder (naturally its most common source, from the irritation of the calculus) or in the organs about, it is impossible always to determine; and usually there are no casts or other pathognomic signs of disorganising renal structure. In fact, neither physical signs nor subjective symptoms are by any means frequently present, and yet advanced pyleitis, and even sometimes chronic nephritis, may exist. Could the existence of these conditions be accurately diagnosed beforehand, it might become a question whether the crushing operation, or any operation at all, should be performed. For there is little doubt that the existence of such organic changes is almost as surely a source of fatal issue in lithotomy as in lithotrity."

Having, then, decided to remove the stone, the question suggested itself as to the operation best suited to this case, and I determined upon operating by the modified median method, as practised by that eminent surgeon, Mr. Lloyd, of St. Bartholomew's Hospital, London, namely, by cutting through the sphincter ani muscle before reaching the staff at the membraneous portion of the urethra. I have always operated according to this method, and with the most satisfactory results; and as I have removed calculi weighing 2 ozs., and measuring 2¼ inches by 1½ inches, I saw no reason for any departure from my favourite operation in the case under consideration. Had I varied the operation I should have elected the medio-bilateral, but having rehearsed it in the dead-house on the day prior to the operation on Robert Berth, I considered it a more hazardous proceeding, and as furnishing no more working space than the median, aided by steady dilatation of the prostate and deep fascia of the perineum. Now, what does Professor Erichsen say *apropos* of the median operation? (*Science and Art of Surgery*, vol. 2, page 650)—

"So in the median operation the prostate may be dilated to a considerable extent without opening its capsule. I have used the word "dilate," but dilatation appears to me to be an erroneous term. I believe the prostate is not simply dilated, but partially lacerated; that there is an actual laceration of the substance of the prostate, but not extending through its capsule. A laceration, however, of the substance of the prostate is of no consequence, and only becomes dangerous when it amounts to rupture of capsule, when it exposes the patient to the fatal accident of extravasation of urine, and diffuse inflammation of the pelvic fascia. Now, in the lateral operation, in running the knife down the groove of the staff, the surgeon may readily, unless care be taken—and very often, I believe, does actually, and almost unavoidably—go beyond the limits of the prostate, and thus exposes the patient to all these dangers. In the median operation this cannot be done, if the knife be not used after the urethra is opened, the prostate being solely dilated with the finger.

"So far as this point, then, is concerned, the median may be regarded as safer than the lateral operation, it being *impossible* to open up the pelvic fascia by dilatation in the median, whilst they *may* be opened by the knife in the lateral.

"In fact, the neck of the bladder and the prostatic portion of the urethra, are, in the median operation, placed very much in the position of the female urethra when that is dilated for the extraction of a calculus; being dilated to a great extent, somewhat lacerated perhaps, but not torn through so as to admit urine into the fascia of the pelvis; and in that, I believe, the great and essential superiority of the median over the lateral operation to consist."

The Coroner asked a witness at the late inquest, "Was much violence used in extracting the stone?" The answer was, "Yes." On this point Erichsen goes on to say:—

"A calculus, for instance, two inches in diameter, cannot be extracted by the median operation without the employment of great violence; but though much force is usually required in order to extract a calculus of even moderate size through this tense ring at the neck, it is an undeniable fact that serious consequences seldom follow the violence so used, and that a degree of force which would be *fatal in lateral lithotomy*, may be employed without danger in the extraction of a calculus by the median operation."

It was suggested that the stone should have been crushed when its size was ascertained; there was no instrument such as Civiale's crusher among the instruments at the Hospital, and if it had been there I should not have risked so dangerous an experiment on a calculus six and a half ounces in weight, with an empty bladder contracting on the stone. With regard to crushing the stone, the learned professor observes:—

"The second plan, that of *crushing the stone in the bladder* through the wound in the perineum, would certainly be a HAZARDOUS PROCEDURE. The irritation that would necessarily be set up by the large lithotrite or crusher (Fig. 623), that has been invented for this purpose, by the presence of the fragments of stone, and by the necessary difficulty and delay of clearing them out of the viscus, would probably be FATAL TO THE PATIENT."

The principal causes of death after lithotomy are—(1) shock, (2) hemorrhage, (3) urinary infiltration and abscess, (4) disease of kidneys. This patient did not suffer from surgical shock, as he was wonderfully well the day following the operation. An unusually small quantity of blood was lost during the operation, and, therefore, he did not suffer from hemorrhage. There was no infiltration of urine or pelvic abscess, showing how little was the injury inflicted during the operation, but the *post mortem* makers found, much to their chagrin, the same condition of the kidneys which terminated the life of the Emperor Napoleon after his operation for calculus in the bladder. We now come to a portion of Dr. Neild's examination (who, by the way, is a newspaper reporter

in this city), in which he informed the jury that there was a wound in the rectum two inches in length! Now, if this gentleman had made the medical profession an especial study, he would have learnt that in performing the rectro-urethral operation for stone, the operator *deliberately cuts into the rectum* to the extent of three-quarters of an inch; also, that the rectum of females during delivery with instruments is frequently torn to a greater extent, followed by recovery. Again, in the operation for fistula in ano longer incisions are frequently made without causing any alarming symptoms. Now, in the case of Robert Berth, the least that we could expect would be an extension of the original wound another inch and a quarter into the rectum, when we contemplate the size of the stone removed, and which I have already described. The conduct of Dr. Annand in the treatment of this poor man merits the gravest censure. He was ordered by me to clear out the bowels by suitable enema, and whilst the man was inhaling the chloroform I put the question, "Have you emptied the bowels by means of an enema?" to which he replied, "I have done so thoroughly;" at the inquest he said I told him to do so, but it was *not done*, and the *post mortem* examination showed the rectum to be packed with hardened fœces. Again, what was his reply to my question, How is the stone case getting on? "He said he was not very well this morning, but he is much better this afternoon"!! and how did I find him? I found him in a fatal state of collapse, without any treatment likely to avert the "tendency to death." Why was not the champagne given the night of the operation? Why did *he* substitute brandy and lemonade for it when the same was ordered by ME, the responsible adviser and operator in the case? He was asked how long the operation lasted, he replied an hour and a-half, whilst surgeons of reputation who witnessed the operation say it occupied from forty to fifty minutes. Again, this young gentleman, in reply to the Coroner, stated, "Mr. Beaney said as the stone was small he would perform the median operation;" of course this is in keeping with his veracity, when he assured me, that he had cleared the bowels well out, *but had not done so!!*

Not one of the surgeons who were present at the operation as visitors heard me make any remark about the size of the stone either before or after the man was brought into the operating theatre. In conclusion, I would ask, why was not the charge of culpable negligence supported by men of my own rank in the profession? Why were the paid

subordinates allowed to trump up a charge against their superior officer? If "Practical Surgeon" was not an arrant coward, why did he conceal his name? Why did he not appear at the inquest, and give me the opportunity of testing his skill and abilities? The outside public have, I am glad to learn, rightly interpreted the base motives which led to such a cowardly assault upon my professional character.

NOTES OF THE *POST MORTEM* APPEARANCES OF THE BODY OF ROBERT BERTH, ON WHOM THE OPERATION OF LITHOTOMY HAD BEEN PERFORMED BY MR. BEANEY AT THE MELBOURNE HOSPITAL.

Saturday, December 25, 11.45 a.m.

The body was found to be in an advanced state of decomposition, and covered with maggots, and had to be well washed with the hose before being subjected to examination. The features were swollen and unrecognisable. The skin, on the trunk and limbs, was of a pale greenish colour, and the epidermis of the whole body was peeled off, even from the soles of the feet. The penis was much swollen, and the scrotum distended with gas. There was a wound in the perineum 3½ inches long, and about 1¼ inches broad in its widest part; its edges were everted and decomposed. The body having been placed in the lithotomy position, the external wound was examined and found to communicate with the orifice of the rectum by passing a probe from above downwards. The head having been opened, the brain was found in a semi-fluid state, and could not be examined. The heart and lungs were much decomposed, no apparent disease being present.

On opening the abdomen, no effusion of serum or blood was found in its cavity. The liver appeared of normal size, and was of a dark dirty-green colour, and much decomposed. The intestines were in tolerably good preservation, and were of a pale colour, and presented no appearance of inflammation or of effused lymph. On turning over

the bowels the large intestine was found attached to the external wall of the abdomen by old and firm adhesions. There were two patches, each about the size of a crown piece, of a dark-red colour, confined to one side of a portion of the small intestine, and appeared to me to be due to hypostatic congestion, or to contact with some other organ. The stomach and intestines were opened, and found to be healthy. The small intestines contained excrement of the colour of yellow ochre, and the descending colon and rectum were filled with dark solid fœces. Several parts of the small intestines and mesentery were removed by Dr. Barker and placed in a jar with spirits and water. The spleen and pancreas appeared to be healthy. The kidneys with the ureters attached having been dissected from their attachments, the rectum and bladder were then separated from their connection with the sacrum, and some of the decomposed blood which had accumulated in the pelvis during this operation was removed and placed in a separate bottle. There was no appearance of infiltration of urine, or of inflammation of the cellular structures of the pelvis. The pubic arch was then sawn through at the symphisis, and forcibly separated by depressing the knees ; afterwards, the pelvis was divided on each side of the pubis, the soft parts divided, and the bladder, rectum and pubic bones removed. On examining the kidneys, the left was found inflamed, but otherwise healthy; the lining membrane of the ureter of the same side was of a pale colour throughout until within about three inches of the bladder. The right kidney was larger than its fellow, and was of a deep purple colour throughout its whole structure, which was softened. It contained in its substance two calculi, one of considerable size and of irregular shape. The lining membrane of the right ureter was also of a dark red colour throughout its whole extent. The bladder on being opened was found to be very much thickened, the mucous membrane being of a dark port wine colour throughout, and its whole surface covered with a phosphatic deposit which was firmly adherent. The prostate gland was dilated to an extent almost beyond recognition. The rectum was lacerated to the extent of one and a-half inches from its orifice through the mucous and muscular coats, and for about half an inch further through the mucous membrane only.

(Signed) ALEXANDER FISHER, L.R.C.S., Edin.

OPINIONS OF THE PRESS.

From the "DAILY TELEGRAPH," *December* 31, 1875.

FEW cases have excited a deeper public interest than the inquiry into the death of the Hospital patient, Robert Berth. We must confess to the belief that, on legitimate occasions, there is no harm, but much good, in bringing the medical profession face to face with its great responsibilities. It might be well to order an inquest, as a matter of course, whenever a man dies under the knife, in order to expose blunders and blunderers. In a certain ratio deaths must ensue, but the public would be keenly alive to the truth, and it would soon learn to discriminate between the operator and the butcher. At one time there was an ignorant horror of operative surgery, and to-day we are not sure that there is not an equally culpable indifference to it, so that a doctor is left to rejoice in the knowledge—

"The grave my faults doth hide,
The world my cures doth see."

The rule, however, is not to hold inquests on deaths after operation. When such an inquiry now takes place it involves a charge of culpable neglect against the operating surgeon, and therefore it is necessary to put the question—why, in this instance, was the grave violated, and why was Mr. J. G. Beaney accused? The finding of the jury was a remarkably intelligent one. It states the case as nearly every reader must have seen it, and, in effect, it is that the prosecution ought never to have been instituted. It is easy to see that the jury think that Mr. Beaney fell into two errors, the one of conduct, and the other of practice. He omitted to send notice of the operation to the other honorary surgeons, and consequently there was no consultation. The explanation hinted at by counsel is that the other honorary surgeons, with one or two exceptions, practically decline to meet Mr. Beaney, and take no notice of his intimations. It is human nature that rebuff should be met with an equal display of contempt, and so the doctors quarrel, and the patient suffers. The protest of the jury is a rebuke to this state of things, and for the credit of the Hospital we trust the committee will inquire into the matter at once, and will insist upon the honorary surgeons either attending consultations or resigning their posts. And then, having taken the responsibility of the operation upon himself, the

jury recognised the plain fact that Mr. Beaney was to a certain extent out in his diagnosis. He believed he would find a small stone, and he came upon one of a size almost unprecedented. He proposed to cut the stone out, and, probably, had he known beforehand what he found out afterwards, he would have crushed instead. In this error and this omission we have had the head and front of Mr. Beaney's offending. Apart from them there seems no imputation of any kind upon his conduct. He carefully rehearsed the operation beforehand on a dead subject. When brought face to face with a great and unexpected difficulty, he met the emergency with coolness and decision. No one in the room had been placed in the same position before; and while some men in such an emergency would have done one thing, some would have preferred another. So many doctors, so many opinions. The main point in such a crisis is for the responsible man to carry out a decided and definite plan. This the surgeon did, and, in the opinion of every man present in the operating-room, without any culpable negligence, because, of course, if any one of the medical spectators had thought that Robert Berth had been subject to improper treatment, he would have reported the matter at once to the police and to the Hospital Committee. The theory of the prosecution involved the monstrous absurdity not only that Berth was mangled, but that Messrs. Annand, Williams, Dempster, Moloney, and Webb stood by, and had not a word to say against the butchery, before or after. Common sense dismisses such a supposition, and the surprise is how it could for one moment be entertained. The gentlemen we have named are, some of them, well known in Melbourne society, and there will be a unanimous belief that if Mr. Beaney had transgressed the bounds, they would themselves have had the courage to demand an inquiry, and would not have left the task to an unknown person—an anonymous writer—who could only repeat the gossip of his coterie.

Had the rules of the Hospital been obeyed, and had the consultation taken place, the jury apparently believe that lithotrity would have been substituted for lithotomy. Some one or another would have found out that the stone was a large one. Dr. Annand says he did ascertain this fact, but he never communicated it to Mr. Beaney, and here we have further evidence of disorganisation in the Hospital, for the resident surgeons ought certainly to be bound to communicate their special knowledge to the honorary operator. It is idle to say, however, that a wrong diagnosis is a legal crime. It depends altogether upon circumstances whether it is even a professional one. If every doctor was to be punished who has mistaken the severity or the character of the patient's symptoms, we fear that Collins-street would be deserted, and that Pentridge would be full. Such errors are not of exceptional, but of common occurrence, and the successful practitioner, as Napoleon said of victorious generals, is simply he who makes the fewest blunders. What society and the law have a right to require is that the surgeon should bring what skill he has to the case, and should give it due consideration and genuine care. That done, he is absolved from all the consequences, and necessarily so, or else a medical man whenever he

took the lancet in hand would feel the rope round his neck. Not the slighest effort was made to show that the accused gentleman did not do his conscientious best. The medical testimony for the Crown simply went to show that he might have done better, and this is no ground for a criminal prosecution, and hence the case did not break down so much as it collapsed. As the jury say, there was not merely a lack of evidence of culpability, but there was "no evidence" at all, and no severer censure could be passed upon the prosecution than this finding. We may add that sham prosecutions are equally dangerous to the profession and demoralising to the Hospital.

From the "AGE," *December* 31, 1875.

THE inquest on the body of Robert Berth, who died at the Melbourne Hospital three weeks ago after an operation for stone in the bladder, was brought to a conclusion yesterday, when the jury returned a verdict to the effect that they could not state the cause of death, but that they were of opinion that evidence had not been brought before them to prove Mr. Beaney guilty of culpable negligence at the operation. That their decision will command the assent of the non-professional public, we make no doubt. As long as there was nothing to show that he had not fairly and honestly exercised what skill he possessed, they could not have charged him with manslaughter. That he ought to have called a consultation of the honorary surgeons before he prepared to operate on the patient, is admitted on all hands. The Hospital regulation on the subject is very precise and peremptory, and the Coroner merely stated what must occur to every one when he pointed out that had the regulation been carried out by Mr. Beaney as it ought to have been, the possibility is a fatal termination to the operation might have been prevented. But Mr. Beaney's neglect in this particular, though decidedly culpable, can scarcely be characterised as criminal. What the evidence shows that he was really chargeable with is want of judgment and discretion, amounting almost to rashness. In the first place, he does not seem to have taken sufficient precaution to ascertain whether the stone in the poor man's bladder was a large or a small one. The country practitioner by whom Berth had been treated described it as a large one, but Mr. Beaney performed the operation for a small one, and the outburst of surprise with which he discovered its true size proves that he had made a mistake. It is true that all surgeons are liable to be mistaken on this point, as Mr. Purves conclusively showed from the text books, but a surgeon of Mr. Beaney's resources ought to have been able to ascertain what one of less repute seems to have found out before him. In the next place, we are afraid that he committed another and still more serious mistake in not crushing the stone when the size of it was made clear to him. The testimony of Mr. Williams, the resident surgeon at the Hospital, is that several practitioners present suggested that it should be treated in that way. But

Mr. Beaney persistently disregarded the advice, apparently for no other reason than that he had set his mind upon getting it out whole. It may be said by way of palliation, that there is a serious conflict of evidence among the medical witnesses as to whether there was any instrument in the Hospital capable of crushing it. Mr. Barker and Mr. Williams expressed their opinion that there was, while Mr. Duncan, the senior resident surgeon, declared that he had crushed a piece of road metal three-quarters of an inch thick with one of the Hospital lithotrites. On the other hand, Mr. Moloney expressed his conviction that the instrument placed at Mr. Beaney's disposal could never have broken the stone, and Mr. Dempster was certain that Melbourne does not contain one that could do it. But all that can be said of this discrepancy is that, while it discloses a state of things that ought not to exist in such an institution as the Melbourne Hospital, it does not help Mr. Beaney in the least, because it does not appear that he ever attempted to even test the instrument upon the stone. The preponderance of the medical evidence is decidedly in favour of crushing being tried, and the general public will undouhtedly have come to the same conclusion. They will retain the impression that in this part of the inquiry Mr. Beaney appears to the least advantage. No doubt he is quite justified in cultivating an independent judgment, but after he found that he had been mistaken about the size of the stone, it would have been common prudence to give some weight to the opinion of the skilful practitioners who tendered him their advice. But we are afraid that the feeling uppermost in Mr. Beaney's mind at the moment was a desire to perform a brilliant operation on his own account. The chance of being able to extract entire from Robert Berth's bladder the very biggest stone in Australia was too strong a temptation for him, and hence the inquest and the unpleasant associations that will be attached to it by Mr. Beaney's opponents. The mess he has got himself into is entirely due to a silly ambition to dispense with the assistance of his professional brethren. He would not call them in consultation, and when they made a suggestion he would not take it. It may be that he fancied himself justified by the distant relations which his professional brethren seem to have preserved towards him since he was elected to the Hospital. His counsel, Mr. Purves, went so far as to tell the jury that the whole proceeding against him was the result of ill-feeling and jealousy; but without altogether endorsing his opinion, we are afraid that there is some foundation for it. For it was not till a fortnight had elapsed from the time of the operation that one of the medical men present at it called attention to suspicious circumstances connected with it, and that too in an anonymous letter to a newspaper. Clearly it is not misrepresenting the motive which must have actuated him to say that it must have had its origin in a desire to wound, tempered by a dread of striking. If the conduct of Mr. Beaney was as culpable as it was sought to make it appear, too much publicity could not have been given to it at the time. Mr. Beaney's friends would not have then been able to raise the cry of persecution, and the profession generally would have come out of the inquiry with more credit than it does.

From the "HERALD," *December 29, 1875.*

THE case which we report to-day in another column raises a very important question, apart altogether from the point to be decided by the jury, as to whether Dr. Beaney is culpable or not. The public have often been sorely troubled as to the responsibility of the medical profession. A person cannot take up the work of any celebrated medical man without finding therein several cases of wrong treatment and of experiment, resulting in the death of the patient. Within the scope of anyone's observation cases must have occurred where a relative or friend was treated by a doctor, who found out, when too late, that he had diagnosed the case improperly, and the sequence was, of course, death to the patient. Yet the doctor pocketed his fee, and smiled; his professional brethren quietly said it was a difficult case, but such mistakes would occur; they could not be helped; they would be a warning in future, and the experience gained would save other lives, &c., &c. How far is a physician or surgeon responsible for his patient's life? That, we think, is a very delicate point. They had a peculiar way of settling it in some Oriental countries; if the king died they chopped off the physician's head. Such a rule, however, would not tend to make the medical profession a rising one; only enthusiastic students would care to adopt the profession.

But, undoubtedly, there is a grave question at the bottom of this matter. We surrender our lives into the hands of our medical men, and there should be some guarantee that they do not trifle with life. It is true that the system of inquests affords a certain kind of safeguard. But here we are entirely at the mercy of the medical men themselves. And it is rarely rare indeed that any doctor who chances to be in the inner clique of the profession is arraigned before a court for culpable or wilful mistakes, "experiments" or the like. If he has done wrong it was through a mistake which could not be avoided. It is very different indeed if what the "inner circle" calls a quack makes a mistake. He is quickly cited to answer for his misdeeds. We query very much, indeed, if the inquest which we report to-day would have been held had the case been in the hands of certain surgeons. We say this without the slightest desire to reflect on the profession generally, but the most unreflective must see that in any walk of life when a man has enemies, bitter enemies, no fault or mistake can pass unnoticed. Watch is kept upon him, and woe be to him if he errs. But, without reference at all to this case, the public must agree with us that there ought to be a clearer understanding as to where a doctor's responsibility begins and ends.

From the "HAMILTON SPECTATOR," *January* 1, 1876.

FROM time immemorable the differences of doctors have been a standing and a rather grim joke all the world over, and why such should have been, and still be the case, is one of those things most difficult to explain.

For a variety of reasons, doctors should differ more mildly than most other people, and yet the very reverse is the deplorable fact. They are all supposed to be educated as gentlemen, and from the moment that they enter seriously upon their studies, their surroundings are calculated to make them acquainted with suffering in every unenviable form, and should consequently soften even hearts that were not soft before. They find their patients, old and young, place themselves as completely in their hands as if they were so many flies, and one would think that such entire reliance would in some way affect them, but it really seems as if they attach more importance to a difference in theory or practice, or even a matter of mere professional etiquette, than to the lives of half of the unfortunates who seek their aid. But above all things are they jealous and vindictive. The artist likes his own picture best, but though he may vehemently anathematise the Hanging Committee as well as his more successful rival, he does not feel quite inclined to kill the latter, but, on the contrary, drinks and smokes with him in the club on the same evening. The author does not at all agree with the stupid public that took that consummate ass Brown's book in preference to his own latest production —and he is accordingly "rough" on Brown for a day or two; but before the week is out, he and Brown drink and smoke together—probably about twice as much as the artists aforesaid. It is in the very essence of an advocate that he should fight his opponent tooth and nail when endeavouring to win a heavy case, and licence almost poetical is granted the combatants while they are in court. To do them bare justice, they freely avail themselves of it; but after having earnestly and, sometimes, honestly abused each other before the judge and jury, they are often the first to have "the pleasure of wine" at the bar dinner. And when one of them far outstrips the rest in the race towards chamber or forensic status, they are proud of him in place of being jealous of him; and they glory in him instead of combining to hound him down. No architect was ever known to feel quite happy at seeing his design rejected in favour of another one; yet architects neither stab their rivals in the front nor in the back, but sit down with them, as they did the other day in Melbourne, and agree to a man to stand by a leading member of their profession—to determine not to compete against him, when the City Council called a second time for designs for an important work for which he had, in the first instance, obtained the premier prize, and which should consequently be left with him to carry out.

How strangely does not this perfectly disinterested, nay, noble action of the Melbourne architects contrast with that of the Melbourne physicians and surgeons whenever a certain member of the latter is in anything like bordering upon a fix? In place of rallying around him like true colleagues proud of their profession, and even committing the venial sin of straining a point to "pull him through," they fall upon him like—*doctors*, for no better simile could possibly be found. With other men, and more particularly other gentlemen, it is *palmam qui meruit ferat;* but with doctors it is down with him and war *à la mort.* Take the case of Surgeon Beaney, who has been the subject of special attack on the part of his fellow surgeons in Melbourne ever since he was for-

tunate or unfortunate enough to be universally recognised as by far the most expert operating surgeon in Victoria. It is scarcely too much to say that his life was more than once attempted by those whom he not offended but eclipsed. Melbourne, by an immense majority, selected him as senior surgeon of her Hospital, and, to mark her sense of his undoubted skill, the other honorary surgeons of the institution refused to meet him in consultation. They are charged with having had the rudeness to leave his invitations unanswered. They did not volunteer the least excuse for their absence. Under such circumstances, what was Dr. Beaney to do but endeavour, as best he could, to do without them. He knew himself to be quite as clever as, well, say any two of them; and boldly faced his work. Nothing was said of his average of successes, for they lay of course solely between himself and the resident surgeon; but the moment a boy dies under the influence of chloroform whilst being operated upon by him, he is attacked in the press in a most cowardly manner by some surgeon who has, doubtless, excellent reasons for concealing his name and address. The result of this attack was the tossing-up of four decently-buried bodies, and the mutilation of the remains of a poor wretch who had been quite sufficiently plagued before succumbing to one of the most terrible diseases that flesh is heir to. It was pretended to be thought that he had been improperly treated by Surgeon Beaney; but, as will be seen elsewhere, an intelligent coroner's jury arrived at a different opinion. If Surgeon Beaney happens to become still more successful than he has been of late, then the Melbourne cemetery may one of those days be the scene of a general resurrection.

From the "JAMIESON AND WOODSPOINT CHRONICLE," *Jan.* 8, 1876.

THE verdict of the Coroner's jury empanelled to consider the cause of death of the man Berth, at the Melbourne Hospital, has exonerated Dr. Beaney from the charge, so terrible a one to a medical man, of having brought about a fatal termination by recklessness, carelessness, or wrongful treatment, for if one and all of these charges were not inferentially made against Dr. Beaney, both by the action of those who have been most active in prosecuting the inquiry, and especially by the individual writing to the *Argus* under the *nom de plume* of "A Practical Surgeon," then there is no meaning in words. It is not easy to see, now that the evidence of all the witnesses has been given, what other verdict could have been arrived at by an impartial jury, and it is still more difficult to understand, with the evidence in view, why so grave a charge should, substantially, have been made, especially as the main ground of offence, namely, that of his not having crushed the stone instead of extracting it whole, seems practically to have been abandoned from the first by what may be termed the prosecution. With the question of

whether Dr. Beaney might or might not have committed an error of judgment, we have, at present, nothing to do; the imputation was, that he had been guilty of criminal negligence, and there does not in the whole of the evidence appear a single word that could substantiate such a charge. "Who shall decide when doctors disagree?" is a question that has become proverbial, and, at most, even those skilled witnesses whose evidence was most unfavourable to him, went no further than to give an adverse opinion of the propriety of the mode of operation he pursued. The charge of recklessness or criminal neglect they did not venture, or at all events did not choose to attempt to substantiate, and the jury therefore, very properly considering that he had acted according to the best of his judgment, which judgment may fairly be said to be of equal value to that of any other surgeon in the colony, dismissed the case. So far, this is satisfactory, but there is another phase in this somewhat tangled tissue of events, which is not quite so satisfactory. There is an awkward, not to say a painful impression in the public mind, that Dr. Beaney has hardly been fairly dealt with, and, to put it in very plain terms, that he has been made the victim of a system of persecution at the hands of a number of his professional brethren, who, envious of his success, and jealous of his reputation as a skilful surgeon, have made this unfortunate operation a stalking horse, whence to attack and perhaps injure him. We do not say that such is a fact, but we do unhesitatingly aver that such is the popular idea, and it is singularly favoured by certain events preceding it in connection with the Hospital, and by the persistent attacks made on him by a section of the press, as well as the scandalous letters which have appeared ever since the Berth case has been *sub judice*. If this be indeed so, then have the wicked devices of his foes recoiled on their own heads, and into the pit they digged for him have they fallen themselves. Let it be distinctly understood that we have no especial sympathy with Dr. Beaney, further than we should have with any other man whose very eminence in his profession had rendered him a mark for the arrows of malice and envy to be shot at. Still less do we think that the members of the medical profession, who may be said to hold, to a certain extent, in their hands the issues of life and death, should be altogether exempt from responsibility, nor that the rules and regulations bearing upon surgical operations at the Hospital ought to be infringed, but at the same time such charges as the one which has been preferred should not be lightly made, and while concurring fully with the finding of the jury that entered a protest against the rules of the Hospital being broken, we are of opinion that if anything could justify the infringement of those rules by Dr. Beaney, it was the cool insolent manner in which he had been ignored by his compeers. In the meantime, it seems that unless an end is put to this unseemly quarrel, the interests of the institution must continue to suffer, and its usefulness to be impaired in the very direction most necessary to its well-being.

From the "SYDNEY EVENING NEWS," *January 10th*, 1876.

THE case of Robert Berth, who died in the Melbourne Hospital recently, after being operated on by Dr. Beaney, is a misfortune for the Melbourne Hospital and the medical profession. But of the whole miserable mess in which the affair is involved, only two men come with credit to themselves—namely, the coroner, Dr. Youl, and the accused surgeon, Dr. Beaney, and it is refreshing, in such a mass of plot and counterplot, to be able to say that the judge did his disagreeable duty of inquisition ably and impartially, and that a talented surgeon wrongfully accused was triumphantly acquitted. The case was originally very simple. Robert Berth, an elderly man worn down with years of suffering, was examined by the Amherst doctors, advised to submit to an operation for stone, and sent to Melbourne to Dr. Webb, who got him into the Hospital, specially placing him under Dr. Beaney's care, on account of his high professional reputation. The man was examined by the doctor, house surgeon, &c., operation decided on, notices sent out to his colleagues, and, finally, in the presence of some eight or ten doctors and a posse of students, the operation was successfully performed by Drs. Beaney and Webb, and the largest stone ever extracted in Australia is the result. The man went on all right for a couple of days, then inflammation set in, and he died on the fourth day. All seemed ended and he was buried. Not a whisper from any of the men that the operation was in any way badly performed. Three weeks later an anonymous letter appeared in the *Argus* attacking Dr. Beaney in a grossly personal manner, and, among other things, referring to this operation, stating in effect that the writer had "heard" it was a horrible piece of malpractice. Dr. Beaney, in reply, declined to notice the personalities, and stated that he did not think the writer was a medical man. In a foot-note, the *Argus* editor vouched for the fact that the writer was a leading surgeon in Melbourne; but still withholding his name. A day or two after, all Melbourne was electrified with the intelligence that, in consequence of this anonymous letter, the Government had put the law in operation, the poor wretched rotten body was to be exhumed, and an inquiry made into the cause of death. Then we read in the papers that the coroner had requested Professor Halford and another scientific man to perform the *post mortem*, but they declined to be mixed up in the affair, and to every one's astonishment, Dr. Barker, one of the bitterest personal enemies of Dr. Beaney, and Dr. Nield, the celebrated theatrical critic, were chosen to perform this delicate and difficult task. The inquest was held, some ten or twelve doctors were examined, and the operating surgeon, Dr. Beaney, almost unanimously acquitted. So much for the affair, and now to enlighten Sydney folks as to the cause; one short sentence will do it—"Envy, hatred, malice, and all uncharitableness." For years Dr. Beaney has been the envied head of the surgical profession here; his income has touched £12,000 per annum; his diamonds, his generosity, his success, have been the talk of Victoria, and is it to be wondered at that less successful men could not see his skill or his merit? One advantage

they had kept from him by mere chance. Ten years since there was a general election at the Melbourne Hospital, and Dr. Beaney lost his seat through over-security, Dr. Barker just managing to squeeze in above him. For ten years, then, he had to visit outside the envied door, and at this last general election they did their best to keep him out. But the public was too strong for this clique of detractors, and Dr. Beaney was returned by an immense majority, far away above all his competitors, his old antagonist, Dr. Barker, occupying a comfortably snug position at the bottom of the poll. Senior Honorary Surgeon of the Hospital at last, with an immense reputation, Dr. Beaney was a marked man. Every action watched, everything criticised by keenly malicious eyes, and his own resident surgeon seems to have not been entirely his friend. Sufficient to say, he met his old and new enemies in his usual bold, open, freehanded way; they might scheme, but he laughed at all; waited till the charge was brought by some anonymous scribbler, met it fairly, was acquitted freely, and returned with unruffled brow and cool steady hand to his houseful of patients, the only sign of annoyance to be found in him being a good-humoured laugh, and a sort of "Never mind, old boy; try a glass of champagne."

From the "MELBOURNE MEDICAL RECORD," *January 15th*, 1876.

BUT what was the reason that Dr. Neild was selected above every member of the profession in Melbourne to make the *post mortem* examination of the body of the man Berth—was it because he was more highly qualified than any other? Not quite; but simply because he is the Coroner's pet, and the henchman of the Medical Society; and what a pretty figure the doctor cut in his examination by Mr. Purves, who it would seem was as well up in professional matters as the Coroner's post mortemer. He admitted that such duties as those imposed upon him by Youl did not come properly within the immediate range of that branch of the profession which he practised. This statement was a neat slap in the face to the Coroner, and a sweet compliment to his judgment and his regard for public safety. But Youl was as well aware of the fact as was Neild himself, and yet he selected him to make a most important *post mortem*, and one which might involve the ruin of a medical brother, who it cannot be denied is capable of instructing both one and the other in their profession. Neild's evidence upon the occasion was not worth a twopenny ticket—Barker's was worth as much—and the conduct of "Lieutenant" Webb was so scurvy that it has placed him beneath the contempt of any right-minded man.

The Coroner was, as he always is, a humbug—the post mortemers were, the one prejudiced and the other incapable; and the whole inquest was a mixture of bunkum and bosh, and has put the country to unnecessary expense. But such inquests are entirely too frequent—there is no occasion for at least one-half of them; and it is full time that the Government should turn over a new leaf with Master Coroner and his pathologist too.

COMPLIMENTARY DINNER TO DR. BEANEY.

About fifty gentlemen sat down last evening to a dinner at Clements's, given by the friends and patients of Dr. Beaney. The Right Worshipful the Mayor occupied the chair. After the usual loyal toasts, the Mayor rose to propose the toast of the evening, "Our Guest." He stated that after an acquaintance with Mr. Beaney of some twenty years, he, as chief magistrate of the city, felt pleasure in conveying to that gentleman in the manner proposed the good opinion of his friends. Prior to doing so he would call on Mr. Butters to read the address prepared, which was as follows:—

"To Mr. James George Beaney, F.R.C.S., Honorary Surgeon Melbourne Hospital.

"Dear Sir,—The slight testimonial (a silver inkstand) which accompanies this is the gift of your friends and patients, offered by them for your acceptance, not so much for its intrinsic value as for the means whereby to express their continued appreciation of your high character and great professional skill, which, combined with your nnmerous charities and the many eminent qualities that have developed during your long residence in Victoria has deservedly won you a vast practice, and the esteem and confidence of a large section of the community. The various annoyances, followed by the late attempt to destroy your professional standing and reputation (to which you have, by professional envy and jealousy, been subjected), has aroused much sympathy. You may, however, rest assured that the signal failure of that attempt has reversed the intention of its promoters, by elevating you still higher in public opinion, and rendering your position wholly unassailable in the future. With hearty good wishes, and an assurance of the continued respect and confidence of your many friends and patients, we are, etc."

The Mayor then remarked that he fully endorsed every word therein contained, and that now he had a further pleasure in store, that of presenting a massive solid silver inkstand, on the front medallion of which was engraved Mr. Beaney's crest, and in the basin the following inscription:—"Presented to James George Beaney, Esq., F.R.C.S., Senior Surgeon to the Melbourne Hospital, by a few of his friends, in testimony of their admiration of his professional skill as a surgeon, and his upright and honourable conduct as a citizen." The Mayor further remarked that to add to the address and inscription on the inkstand was quite unnecessary, and he therefore called on them to drink long life and continued prosperity to Dr. Beaney.

Dr. Beaney replied in feeling terms, and stated that it appeared to him that to the hostility of the profession he was indebted for a considerable amount of his popularity, but that he had to rely on his professional ability for his success, and would add that since he had been elected surgeon to the Hospital he felt more pleasure in ministering to the suffering poor than he did to those who were well able to pay him, and so long as he was connected therewith, he would devote his best talent to the institution. He thanked his friends sincerely for the compliment paid him.

The toasts of "The Press" and "The Ladies" concluded a very pleasant evening.

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