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Fort, J. M.

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PETITION.

J. M. FORT, Plaintiff,

vs.

RICHARD PETERSON, Defendant.



In District Court, Lamar County, Texas.

TO THE HONORABLE DISTRICT COURT OF LAMAR COUNTY, TEXAS :

The petition of J. M. Fort, who is a resident citizen of Lamar county, Texas, exhibited against Richard Peterson, who also resides in said county and state, would most respectfully represent and show unto your Honor: that your petitioner is now, and has been for more than twenty-five years, a regular practicing physician, and engaged in the practice of medicine for the maintainance of himself and his family; that petitioner has taken great pains and care and labor, and has expended a great amount of money and labor in preparing himself and keeping himself prepared for the practice of his said profession, and is a regular graduate of Jefferson Medical College, and

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holds a diploma from said medical college as such graduate—the said college being situate in the city of Philadelphia, in the state of Pennsylvania—and that petitioner graduated and obtained his diploma, as a graduate of said college, on the eighth day of March, 1851, and has ever since been engaged as a regular practicing physician; that during the whole of said twenty-five years, your petitioner has borne a good reputation as a physician, in the medical associations of the country, among his associates and companions and brother physicians, as well as with the people of the country wherever he has practiced his profession; that petitioner has been engaged in such practice of his profession as a physician in the city of Paris and county of Lamar, and surrounding counties, for a number of years, and had been continually engaged as such up to and since the thirtieth day of July, 1876, using and practicing in his said profession the best and most approved remedies, and after the latest and most approved authors; that, on or about said last-named date, your petitioner was called upon by defendant to visit, as a physician, the child of defendant, who was a minor about the age of four years, named Charles Darwin Peterson, and to prescribe for him such remedies as plaintiff might think necessary for his treatment; that at the time that plaintiff was so called upon by defendant to treat said child, it was afflicted with serious and complicated diseases which baffled the skill of physicians, and although plaintiff used all remedies within his power as a physician, and called in another physician of skill and ability, who likewise used all remedies that they could devise, that were proper for the treatment of said child, yet, notwithstanding all their efforts, the said child, on or about the thirty-first day of July, 1876, died—without any fault or want of attention or care or skill upon the part of said physicians.

Petitioner would further show that afterwards, to wit:

on or about the fifteenth day of August, 1876, and at various other times before and since said date, the said defendant, Richard Peterson, was and now is, and had been for a number of years before said last-mentioned date, editor, publisher, distributor and sole owner and proprietor of a certain newspaper published in the city of Paris, Lamar county, Texas, twice a month, and known as "Common Sense"; that said newspaper purports to be devoted to "Free thought and the downfall of supernaturalism," and has a large and extensive circulation in the said Lamar county, Texas, and adjoining counties in said state, and in other states; that on or about said fifteenth day of August, 1876, and at various other times since said date, the said defendant did, unlawfully, wrongfully, falsely and maliciously, write, print and publish and distribute, in said Common Sense newspaper, and referring to plaintiff's treatment of said child, as a physician, a false, malicious and libelous article against petitioner, headed and entitled, "Our Dead Baby," and in words and figures substantially as follows, to wit:

"OUR DEAD BABY.

"The readers of this journal have once or more noticed a brief reference by us to our baby boy, Charles Darwin. It was a weakness, no doubt, those allusions, and such as a fond father or mother readily overlooked. Well, the little fellow is now in his grave. He died about 8 o'clock at night, on the thirty-first day of July. He lacked four days of being four years and three months old. He had been hale and hearty all his life, one or two brief attacks excepted.

"The doctors say he died of brain fever; we say he died of calomel and ice. But we are phrensied with sorrow, and our opinion is not worth a button. We had two of the most eminent alopathic physicians in the city.

"They treated our boy just as they would have treated their own; and they would, of course, have had a funeral just as we had a funeral. If there was any mistake, it was inherent in the school to which these learned gentlemen belong, and not any error in practice or want of attention on their part to the case in point. We think the most fitting tribute a wretched father can pay to his prematurely dead son is to recount the mode of his taking off; for it may, peradventure, serve as a warning to now happy parents who rejoice in the possession of a little Charlie.

"He had a slight fever on Saturday night, July 29th. During the night we gave him some powders. In the morning (Sunday) his fever was almost gone. He got up very early, played with his swing, and at breakfast ate two biscuits. In an hour or two his fever again rose; but nothing serious. About 2 o'clock his mother and ourself thought we would call in a doctor.

"The doctor looked at his tongue, felt his pulse, and signified that his fever was not high, but that he would give something to affect his bowels. He gave what appeared to be a large dose of calomel and rhubarb. In half an hour afterward the little fellow had a spasm, followed in quick succession by three others. During the spasms his feet were bathed in hot water, and he was plied with various drugs. Ice was then applied to his head, under his head, on top, and all about, in bags, in cloths, and re-applied as soon as dissolved, up to the moment of his death. Monday morning, after the ice had been to his head more than fourteen hours, and various medicines given, including several teaspoonfuls of chloral, he was yet conscious, and he remained so for some time, recognizing his sister, his mother and ourself, and calling for water, and saying to his mother: 'Mama, I's so sick!' His feet and hands towards the last, were kept warm with difficulty, in fact, his hands could not be warmed. Four hours before his

death he had shivering spells, his teeth chattered, his lips were as blue as indigo, and his whole body presented a pided appearance; he looked the image of one freezing to death. Six or seven hours before the final struggle his little head was almost as cold as the ice itself, and the doctor's attention called to it. He said, 'that is nothing; the child's brain is hot on the inside.'

"About noon, Monday, the little sufferer frequently cried out: 'Papa, mama, Charity.' (Charity is a negro woman long a servant in our family). He would call for his mama to take him, and make efforts to rise. On these occasions the doctor would give him chloral, the child would be held down on the mattress, more ice crowded around his head, the melting ice running down under him in the bed until the bed was saturated. The horrible thought now suffocates us, that these cries for help and these struggles to get up were caused by the tortures inflicted by the murderous ice. Great heavens! what a reflection for a heart broken father and mother to carry with them to the grave—their darling frozen to death with the thermometer at ninety-eight in the shade!

"We are now of the opinion, and we utter it with no wish to offend anyone concerned, that had we have had no physician at all, our child would to-day be alive and well. We are thoroughly convinced that the dose of calomel acted as a powerful irritant and accelerated, if it did not primarily produce the convulsions. We are thoroughly satisfied that our boy would have speedily recovered from the spasms had he had no medicine but warm baths, with moderate and short applications of cold water to the head. Our baby's condition was not at all dangerous, as can be seen by the following extract from a standard medical work, entitled, Lectures on the Theory and Practice of Physic, by John Bell, M. D., volume 11, page 484:

“The occurrence of convulsions in a child, laboring under symptoms of inflammation of the brain, is always looked upon as formidable; and indeed it is natural that convulsions, to persons unacquainted with pathology, should seem to point out a great intensity of disease. I have, however, been long of the opinion that convulsions occurring during the existence of hydrocephalus in children, or meningitis in adults, are not so dangerous as persons think. I will even go so far as to say, that the worst cases I have seen in which a cure was effected, were those in which there were the greatest and most violent convulsions; and that in most of the cases, which appeared to go on without any benefit from medicine, there were scarcely any. I am of the opinion that convulsions are often of benefit by giving relief to the brain. This statement must appear somewhat paradoxical, but I trust I shall be able to prove to you that it has some foundation in truth.’

“Another alopathic volume—James Burns—on diseases of women and children, page 538, gives the following directions concerning convulsions in children; but as it was published in 1839 the modern works, doubtless, prescribe ice in the form, quantity and persistency as used upon our poor boy:

“Put the child into the warm bath, the head alone being kept above the water, and he is to be retained there for a few minutes, if the fit does not pass off sooner. Clothes wet with cold water may at the same time be applied to the head so as to cool it, but not to such an extent as to make it cold. Smart aspersion of the face with cold water has also done good, and even pouring cold water on the head has been advised. I am not, however, very partial to this; for I have seen a state resembling syncope, produced by it.’

“The homeopathic treatment is this, as set forth by J.

H. Pulte, M. D., in his *Domestic Physician*: After remarking that a child, during many of its early diseases becomes liable to fits or convulsions, which have their origin in a congestion of the blood to the brain, from the nature of the disease present, and that the convulsive fit acts rather more beneficially than otherwise, as it generally terminates the height of congestion by rendering the little patient insensible to former distress, etc., he says: 'Order immediately a warm foot or general bath, if the size of the tub will allow of the latter. (While the bath is preparing certain homeopathic medicines are to be given as set forth.) After the bath, which may last from five to ten minutes, wrap the child, without drying off, in heated flannel and lay it with its head higher on a pillow made of quilts, and if possible, covered with oil-cloth. During the application of the bath, cold water may be poured over the head of the patient in a small but constant stream, until the head feels quite cool. This process is repeated afterward as often as the head begins to feel warm again. Give no strong medicine.' In another place he says: 'Discontinue the cold application as soon as consciousness returns.' And mentions as extraordinary, one case where he had to continue the water to the head for four hours.

"In the case of our poor little fellow, the ice was continued for twenty-eight hours. Let the reader hold a lump of ice in his hand for a few moments, and he will then have a faint idea what must be the effect upon a little baby's head imbedded in an iceberg for twenty-eight consecutive hours. Let him consider, too, that the child was dosed ever and anon with various drugs, and that it had no nourishment for thirty-six hours.

"We say again, we have no unkind words for the two old and experienced practitioners, under whose care our child expired. We fault the system. It may do for adults, but it is death to the little ones; We are not, neither here

or elsewhere, the only heart-broken parent. In this village we can point to scores of families whose darlings have been wrenched from their hearts and hurried into infantile graves through adherence to this fatal school. Hence, as a journalist, we deem it a solemn duty we owe to our readers to give these bitter lines to the public. Had we but seen an article like this, ere our heart's joy was taken ill, we would have been forewarned, and our precious boy would now be alive. Ninety per cent., says the celebrated Dr. Schudder, of the children that die under treatment would, if left to themselves, have recovered.

“Reader, this is an obituary; it is our first attempt. There is no need of telling of a blighted household; this can be experienced, but not described. The bereaved father or mother who reads these melancholy words can alone understand our grief: Farewell bright one, farewell forever.”

That in like manner the said defendant, Richard Peterson, did in the said newspaper, called Common Sense, in an issue thereof, published September 1st, 1876, and referring to plaintiff and his treatment as a physician of said child, write, print, publish and distribute another false, wrongful, malicious and libelous article against petitioner, entitled, “Frozen to death,” which said article is substantially in word and figures as follows, to wit:

“FROZEN TO DEATH.

“The following note was handed us by two of the city physicians:

“MR. PETERSON, DEAR SIR:

“As an act of simple justice to the medical profession here, we believe you should have accompanied the account in your last paper of your child's recent sickness and death, with the names of the attending physicians. The treatment there described is altogether novel to us,

and without, so far as we are aware, the shadow of authority in the books; hence, by publishing your extraordinary statement to the world, unconnected with the names aforesaid, you implicate our entire fraternity. If there was a wrong committed either by the negligence or want of skill of the gentleman you employed, (one of which there certainly was, if your published history of the case is not exaggerated), let the blame attach, not to the whole local profession, as it now necessarily must, but to the guilty individuals themselves. The public mind, too, neither here nor elsewhere, should be kept in doubt as to the parties concerned in so grave a matter.

“‘You are at liberty to publish this note with or without our names, as you deem proper; however, we would prefer that our names be omitted, as we desire no notoriety in this connection.

“‘ \_\_\_\_\_

“‘ \_\_\_\_\_

“‘Paris, Texas, August 23, 1876.’

“These gentlemen are right. We should have given the names of the two doctors. If they did wrong, they alone should be held responsible. If they did right, our publication can do them no harm; their names are Drs. J. M. Fort and D. H. Gibson. Dr. Fort had charge of the case from the first, and he, of his own accord, called in Dr. Gibson on Sunday night, and he came again the next morning, when we were informed by Dr. Fort that he consulted with Dr. Gibson, and hoped it was agreeable to us. Of course, we had no objection. Up to this time, Dr. Fort, who is our nearest neighbor, had been our family physician for nearly ten years.

“There had never been a moment, during all that time, when the kindest relations did not subsist between us and between the families. His family seemed to be almost as much attached to our baby boy as wife and ourself.

We had the utmost confidence in his ability as a physician. Hence, when we called him to our boy, we surrendered judgment and discretion, and followed implicitly his directions. Herein consisted the fatal error. Had we exercised the smallest degree of judgment, our child would have been saved. Had we not turned a deaf ear to the whispered remarks of the ladies, who came in during our child's illness, all would have been well. Several of them said to the child's mother that it looked to them as if that ice ought to come away. Once or twice the ice was moved away, and we ourself, put it back again; for it was the doctor's repeated injunctions to keep the ice to his head, and on no account get out of ice. He even desired us to telegraph to Sherman for ice for fear the supply in town would give out; and we had on hand, when the baby died, thirty-five pounds of ice, after liquefying against his dear little head about forty pounds in twenty-eight hours! Think of that, reader! forty pounds of ice melted on a four-year old baby's head in twenty-eight hours!

"About noon, on Monday, Capt. Jno. O. Ewing, an acquaintance, came in to see our sick one, and as soon as he found out what had been the matter, and what was being done for the patient, he said the ice ought to come away and the child to be put in a warm bath. But we would listen to nothing without the doctor's consent. The captain went to see the doctor, and for several hours plead with him to take the ice away, and let him put the boy in a hot bath. Says he, 'you say the child is bound to die; why not change the treatment? There is no risk to run.' About 4 o'clock in the evening, Ewing succeeded in getting a mere passive consent, and a tub of warm water was brought in. The child was raised up, and an attempt was made to put him in the tub, but the little fellow resisted, and made an outcry against it from fear; and we, the poor, paralyzed father, seeing the doctor manifest no interest

in the proceeding, had the little fellow put back on his pillow, and with our own hands, replaced the cruel ice to his little head. Had this hot bath been given, the boy wrapped in warm flannel, the ice promptly withdrawn, his little hands and feet vigorously rubbed with mustard, some warm stimulating drink given him, we are firm in the belief that even it was not too late—that our grand boy would have been snatched from the jaws of death. Heat is life—cold is death.

“What we started out to write was not to repeat the story of our wrong in this second reference to this, to us terrible subject, but to impress deeply upon the minds and hearts of mothers and fathers the necessity of preserving their faculties when sickness visits their heart’s idol. Had we done this our beloved Darwin would not now be lying in the cold and silent tomb. Our home would not be desolate, all sighs and tears; but joyous smiles, youthful feet, loving arms and warm kisses would be waiting impatiently our nightly return. The reader sees by what we said in our last, and what we have so far related, that our baby’s malady was of the commonest character, requiring naught but the simplest remedies. He has beheld, also, how complex and disastrous was the treatment he received; he sees, also, and so does every man and woman who has read these lines without prejudice, that the doctors did not understand the disease; a disease which the books say is common to all classes of children until seven years of age; a disease which every old woman in the country treats successfully.

“In our former article we censured the system; but by our searching, and after consulting with six disinterested physicians, and hearing of the opinions of several others, we are now fully convinced that whatever defects there may be in the alopathic school, it is not charginable with the barbarous treatment our fine boy received. On all

hands, among medical men and laymen, we have heard but one conclusion, viz: that ice did the business! Peterson's child was butchered!

“How to account for it, we know not. It is the mystery of mysteries. Some have said, the doctor must have been laboring under a temporary attack of insanity; others, that he had eaten too much opium; others, that he was absorbed in business, and was not thinking about what he was doing. To all of these sayings, we have shaken our head. All we know is that our bright boy was frozen to death. All we know is that there are two hearts in our house, inconsolable with sorrow. All we know is that a few weeks ago we had a stout, healthy, handsome, smart boy, an only son, taken ill with a slight fever, and now he is in the graveyard!

“We are now thoroughly assured that Dr. Fort did not, from the beginning, understand our boy's case. He says to my wife, when the first spasm was going off, and he was pouring water on the child's head: ‘Well, we must now stop this,’ meaning the water, ‘it won't do to carry this too far;’ but shortly after the close of this last spasm, and all four of them did not last thirty minutes, he submerges the little head in ice, and orders it to be so kept during twenty-eight hours. During the second or third spasm, he says to us, with a look of mingled anger and fright: ‘Where have you been with this child, Mr. Peterson? He must have contracted some terrible disease while you were gone.’ An hour or so afterward he took us on the front gallery, out of hearing, and said to us: ‘Do you know that your child is very bad off? Unless some wonderful change takes place he can not last until midnight. His pulse is scarcely preceptible.’ Dr. Gibson, also, when he came, made substantially the same remarks to us, and, of course, we were frightened nearly out of our wits.

“But, now mark what one of the very first alopathic authorities say with reference to the treatment of the child when this is the condition :

“‘In addition to warm baths, \* \* \* “cold applications” to the head will be found useful in nearly all cases which are of any considerable violence. Their use would be improper, however, when the surface is pale, the features contracted, and the pulse small and feeble.’—Meigs & Pepper on Diseases of Children, title, Eclampsia (convulsions) page 507.

“The italics, except in the first line, and capitals, are ours.

“Not a word, however, about the child’s dying in a few hours, because its pulse is small ‘and feeble,’ and the cold applications, when proper to be used, are not bags and cloths of ice crowded over every square inch of the baby’s head, but simply ice-water poured on the head while the head remains unnaturally heated. Not a word about the ‘brain being hot on the inside.’ Now, at the very moment when these learned doctors were buttonholing us on our front porch, with terrible prognostics of our sweet boy’s speedy dissolution, as indicated by the great feebleness of his pulse, the little fellow was lying on a cloth filled with ice for a pillow, with ice on both sides of his head ; and this, too, after two large buckets of cold well-water had been poured over his head.

“Before the ice-bags were put to the child’s head, the crisis had passed, and there was no indication whatever, during the whole twenty-eight hours thereafter, that the convulsions would return, but, notwithstanding, the doctors persisted in continuing the ice ; and the little sufferer was aroused from a deep sleep, quinine injected into both his arms, and then every two hours, all through the night, up to an hour or so before his death, he was dosed with

quinine, and in the intervals with chloral and other drugs. Meigs & Pepper devote some twenty pages to the consideration of convulsions, and there is not a word about quinine or chloral. Nor have any of the authorities examined, nor have any of the physicians interviewed by us, intimated that such medicines were to be given in this disease. But all the authorities and everybody say, put the little one in a hot bath. This, in the case of our child, was not done.

“All things considered, is it any wonder that our darling was destroyed? The marvel is that he lived as long as he did. He must have had a constitution of iron. In the words of a friend, the treatment the little fellow experienced would have killed an ox in less time.

“Had Dr. Fort said to us, as is a very common custom, we understand, amongst medical men, where there is reason to apprehend fatal sickness: ‘Mr. Pe’erson, it is my opinion your boy’s life is in great danger. I have done, and am doing, everything in my power, but you will feel better satisfied, should he die, if you now call in other physicians. Go or send up town and get one, two, three or more doctors, and we will all put our heads together and see what can be done.’

“Oh, if he had been generous enough to have said something like this! In a few minutes we would have had physicians there who would have torn that horrible iceberg from the little fellow’s head, and we would now have reason to bless him instead of—Oh, Darwin! Darwin!

Oh, horror! horror! horror!

Tongue nor heart cannot concieve nor name thee.

Confusion now hath made its masterpiece.

Most sacrilegious murder hath broke ope

Nature’s anointed temple, and stole thence

The life o’ the building.

“Let no one imagine that we would have paraded our

grief in this way, had our boy died from disease or accident. No, far from it. We would have mourned him in silence. As it is, had we remained reticent as to the outrage done this little life, we should ever have felt that we acted the part of an arrant coward, regardless of our solemn duty to the dead and to the living. Our infant son should not be in his grave, but he is there through the most astounding, palpable and inexcusable want of medical foresight on record. The public should know this. By this knowledge a thousand little ones, in time, in this country alone, may be saved from the fate of our darling child. Doctors are public men, and their acts are legitimate subjects for criticism. By this relation to society they hold in their hands, as it were, the lives of their fellow-beings. Let them be held to a strict accountability. Let their ignorance or their blunders pass through the ordeal of public exposure. Herein is the citizen's only redress. Herein can humanity hope for any security against frightful recklessness and stolid incompetency.

“It is rumored that Dr. Fort is to bring his conduct in this case before the medical board in this city. It is scarcely possible that any board would endorse his ex parte diagnosis and treatments, after what has transpired. Such endorsement could serve no purpose but to destroy public confidence in the entire faculty. The court that would try a culprit on his own testimony, would most certainly be laughed at. Our columns are open to anyone who may feel aggrieved at what we have said in the premises. If we have done anyone a wrong, we are ready to right him. It would be a real consolation to know that we have erred in our conclusion. If there is a solitary precept or example, in any recognized authority, for the course pursued in this instance, we should hasten to lay it before our readers. It is this dearth of precedent that astounds us and confuses everybody.”

That, in like manner, the said defendant, Richard Peterson, did, in said newspaper called Common Sense, in an issue thereof published September 15th, 1876, and referring to petitioner and his treatment, as a physician, of said child, write, print, publish and distribute, another false, malicious and libellous article against petitioner, entitled, Child Murder, which said article is in words and figures, in substance, as follows, to wit :

“CHILD MURDER.

“Up to this writing, September 11th, no answer or defense has been offered the public by the gentlemen who are charged by us with the death of our child. The reason is obvious : they can discover none. Their professional conduct in this case transcends all precedents, and admits of no justification. The medical society met on Thursday night the 6th inst., and it was expected, on all sides, that this matter would be discussed, but from some cause, silence—the same stillness which obtains in the coffin of their victim—marked the course of the two doctors before this august body, upon this dreadful topic.

“It is said, dead men tell no tales. But be it known that a murdered infant son can talk through the types of a distracted father. Be it known that this foul deed shall go throughout the land until the hidden hills and vales shall echo back the sad, sad recital—sepulchral voices to recreant, heartless, stolid ignorance. Why is our child in his grave? Disease? No. Accident? No. We hurl it back as a base slander on the youthful dead. He inherited on both sides, a vigorous constitution. You could hardly have killed him with a billet of wood. He had scars on his forehead where he had tumbled, at play, that you could almost lay your finger in; but he minded not these falls as much as many a strong man would a scratch. Strong in chest and limb, full of vigor and life, and indi-

viduality of character far beyond his years. Why should he die? Oh, these wretched doctors! They had to resort to such unhallowed means to accomplish this grievous end, that the very shadows as they flit take tongue and cry out against them.

“Is it not murder—moral murder? Will not some future legislature make a law to punish men who hold themselves out to credulous fathers and mothers as healers, when they violate, either through ignorance or recklessness, the simplest rules of the very art they profess. We do not charge these men with intent to kill our boy. But are not public carriers held responsible for negligence? Are not railroads assessed in round sums for maiming and killing passengers by reason of the carelessness of employees? Why not apply the same wholesome restraint to the unskillfulness or carelessness of the medical practitioner? The public is certainly more at the mercy of doctors than any other class; and it suffers more frightfully from them than it does from any or all other classes combined.

“Let the philanthropist look to it! Let an effort be made to school the public mind to demand laws that shall protect it, and keep its little ones out of premature tombs, by the terror of public prosecution and high damages against transparent disqualification, or unmitigated delinquency. Take these facts, for instance, and how easy it would be to make out a case before a jury of most flagrant malpractice.

“In another column will be found a treatise on convulsions from a standard medical authority. This magazine is taken by several physicians here, and among them is, we are told, Dr. Fort. Examined by this criterion, let us review his treatment of our dead child:

“1st. The veriest tyro in medicine will have seen from the symptoms already described, that our child was effected with excentric convulsions.

“2d. After ascertaining the cause of the convulsions—and they prove to be from the stomach’s irritation—the treatment is to give an emetic. The doctor did give an emetic. But how? After pouring two buckets of water over the child’s head, and wetting him to the waist, he forced down him nearly a tumblerful\* of ipecac. In this condition he was put in his crib, his feet bathed in hot water, and his head put on an ice pillow, and ice piled on both sides of his head. The doctor thought it an unfavorable symptom that the little fellow did not vomit. What do all the physicians whom we have talked to say about this? They say no human being in the world could have vomited under these circumstances. If, say they, the boy had been put into a tub of warm water and kept there for a few moments, a spoonful of ep<sup>h</sup>ac would have vomited him.

“3d. The medical authority alluded to enjoins the use of the full bath; this was ignored by our doctor.

“4th. The patient should be kept absolutely quiet in bed, no friction, and no mustard plasters to the spine. Our little fellow had plasters on the spine, the back of his head shaved and blistered, and a big lotion of ice applied to the outside of the blister; put there, we suppose, to stimulate the action of the blister. But it failed to draw. His feet and hands were rubbed with mustard. Hot cloths were anon applied to his stomach and hot irons to his feet.

“5th. Not a word does the writer say about putting cold applications to the head—of any description. Our doctor imbedded the child’s head in a solid layer of ice, cloths and bags! even taking a hatchet, Monday, about noon, and himself, pounding the ice fine, so, as he said, it would spread out over more surface of the head. What

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\* “The doctor mixed three half tumblers of ipecac, but there was about one half tumbler wasted in giving the medicine to the child.

would twelve honest jurymen say upon retiring, if indeed they should stand so long on their verdict? Would they not say this is the most glaring malpractice?

“1st. Not one drop of water should have been put on the child’s head.

“2d. The doctor is guilty of a gross unskillfulness in not putting the child in a warm bath at the very start.

“3d. He is guilty of incredible stupidity in attempting to vomit the child under the circumstances.

“4th. No rubbing or blistering was permissible.

“5th. The dosing with quinine and chloral was an inexcusable blunder.

“6th. The application of ice for twenty-eight consecutive hours was wholly unwarrantable, and was the immediate cause of the boy’s death; no human being could have withstood it.

“Half an hour before the doctor gave the big dose of calomel and rhubarb, referred to in our first article on this subject, the little fellow was on the floor, wide awake, looking through a stereoscope at the pictures, and making some of the smartest remarks about them. Half or three quarters of an hour after he had taken the calomel and rhubarb he was taken with convulsions. Calomel is put down in the books as an irritant poison, and stupor and convulsions are the symptoms.

““Now, a prudent practitioner, knowing the predisposition of all children to convulsions, especially in fever, would have hesitated while the fever was on in giving this drug, especially in so large a dose; but, from the very outset, and it seems now like a fatality, he flew at our dear little fellow, to borrow the indignant expression of a physician to whom we related these circumstances, as if he was trying to kill a snake in a brush pile.

“ We have been told upon authority which we cannot question, that Dr. Fort declared, at various times and places, that he still believes his treatment was correct, and that he would pursue precisely the same course again if the symptoms should be the same.

“ If this is true, mothers and fathers sending for him in a like case, should direct the same messenger to go by Babcock’s and order a coffin.

“ We invite anyone, and especially the medical men, to search the books for a precedent of the treatment our child received. Give us the volume and page; we do not limit them to convulsions; they may take any disease baby flesh is heir to. Put water, ipecac, chloral, quinine and ice together in the proportions and modes administered, and see if they can find a disease or condition of human suffering where, in one solitary authority, these remarks are prescribed.

“ ‘ Will all Neptune’s ocean wash this blood clear from his hand?  
No; but his hand will rather the multitudinous seas  
Incarnadine, making this green one red.’ ”

Which said false, slanderous, libellous and malicious articles, the said defendant has ever since said August 15th, 1876, and before said date, continued to circulate and distribute over the country and throughout the state of Texas and in other states, falsely, libellously and slanderously and maligning the character and reputation of petitioner as a physician. That said three numbers of said newspaper, to wit: of August 15th, 1876; September 1st, 1876, and September 15th, 1876, and containing said articles above set forth, also each containing various other false and libellous articles against petitioner, are filed herewith.

Said first named article being published in said Common Sense, August 15th, 1876, Vol. 3, No. 4, of said Common Sense, marked “Exhibit A;” and said second article

being published September 1st, 1876, Vol. 3, No. 5, of said Common Sense, marked "Exhibit B;" and said third named article being published in said Common Sense, September 15th, 1876, Vol. 3, No. 6, of said Common Sense, marked "Exhibit C," and all three of said Exhibits are herewith filed and part of this petition. That said articles and publications show and exhibit a slanderous and malicious design on the part of defendant to falsify and malign the good name and reputation of petitioner as a physician, and to annoy, vex and harrass his feelings and mind.

That said defendant is a man of great wealth, and owns and possesses a great amount of property, to wit: to the amount of sixty thousand dollars, or there about, and owns and keeps the said newspaper called Common Sense for the purpose of maligning and abusing others. That through his great wealth, defendant has given said newspaper great and extensive circulation, and a great part of this circulation thereof is free, and the same is sent to various persons all over the country without any subscription or price.

And petitioner avers that said defendant has issued, published and distributed a greater number of said three issues of said newspaper containing said false, malicious and libellous articles against plaintiff, than of any other former issue thereof. That the same were issued as aforesaid, to circulate free of charge, and as extras; and the defendant has distributed the same free of charge to various persons, as well as to his regular subscribers, all over the country where plaintiff is known and where he is not known; and all for the malicious and wicked purpose of design and intent to injure and break down his practice.

That your petitioner has been and is greatly damaged and injured, and his business greatly impaired, by reason

of said libellous publications, and petitioner has been thereby greatly annoyed, vexed and harrassed in body, mind and feelings to the great damage and injury of petitioner, to wit: in the sum of thirty thousand dollars. Wherefore, petitioner sues and prays for citation, for judgment for his said damages in the sum of thirty thousand dollars, for cost and for general relief.

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,

Attorneys for Plaintiff.

# ANSWER.

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STATE OF TEXAS, }  
COUNTY OF LAMAR. }

In District Court, October Term, 1876.

J. M. FORT }  
vs. }  
R. PETERSON. }

And now comes R. Peterson, defendent in the above entitled cause, and says the said plaintiff's petition is not sufficient in law to maintain his said action.

R. PETERSON, Defendant.

And for further answer, defendant denies all and singular the facts and allegations set forth in said plaintiff's petition.

R. PETERSON, Defendant.

## AMENDED ORIGINAL ANSWER.

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J. M. FORT  
vs.  
R. PETERSON. }

Now comes the defendant, and, with leave of the court, files his amended answer as a substitute for his original answer, filed herein October 5th, 1876, and for answer says, that the facts and allegations contained in plaintiff's petition, as therein set up are not sufficient, in law or equity, for him to have and maintain his action herein.

And for further special exceptions, says :

1st. That the petition does not show that the newspaper publications complained of were not privileged communications.

2d. The petition neither alleges nor shows that there was a want of probable cause for the statements contained in the aforesaid publications.

3d. The petition, taken altogether, does not show that defendant was actuated by malice in making said publications.

Whereupon they pray for judgment of court.

E. L. DOHONEY,  
J. C. HODGES,  
Attorneys for Defendant.

And if required to answer further, defendant denies all and singular the allegations contained in plaintiff's pleadings, not hereinafter specifically admitted.

He says that it is true, as alleged in the petition, that, in July, 1876, plaintiff was a practicing physician in the city of Paris, and in the county of Lamar, state of Texas, and was holding himself out to the public as skilled in the science of medicine, and competent to treat disease; that, on the twenty-ninth day of July, 1876, plaintiff, as a practicing physician, was called to see the infant child of defendant, Charles D. Peterson, then slightly indisposed, said Charles D. Peterson was then about four years old, of sanguine-nervous temperament, and of sound constitution, and good general health.

It is true that plaintiff did treat said child; that his treatment was most extraordinary, and to the little patient, one of terrible suffering; and that, under this treatment, the child, in a few hours, died. Whether the treatment of plaintiff, or the disease, or the combined effects of both, killed the child, defendant is unable to say. He believes, however, and did believe at the time of the publications complained of, that plaintiff's treatment of his child was the cause of its death; and he avers that he had probable cause and reasonable grounds for that opinion; and that it is and was his privilege and duty to express such opinion.

Defendant alleges that said child was but slightly indisposed when plaintiff was called to see him; and that he has every reason to believe that he would have been entirely well in a few days had not plaintiff treated him; that plaintiff began the treatment by giving the child an extraordinarily large dose of calomel and rhubarb, the probable effect of which, on a temperament like his, was to produce the spasms or convulsions that followed. Then,

instead of using the ordinary simple remedies for convulsions, he gave the child an excessive dose of ipecac, a most nauseating medicine, the probable effect of which was to intensify the sickness and irritation of the stomach, and so completely paralyze the vital powers as to prevent their throwing off the disease and medicine already preying on the system.

To these strong medicines internally given, plaintiff afterwards added quinine and chloral, in repeated doses, both of which are medicines of great stimulating power, and to a child of Charles D. Peterson's temperament, and in his condition, likely to have produced very injurious effects.

Then, as if not satisfied with these attacks upon the vitality of the little sufferer, internally, plaintiff applied the freezing process externally; and, after an excessive application of cold water, applied and kept ice to every part of the child's head, continuously for twenty-eight hours, and until thirty-five pounds of ice had been used, producing that shivering of the body, chattering of the teeth, and livid appearance which always attends freezing of the human body, until death relieved the poor child from his agony.

Defendant believed, at the time of each of the publications complained of, and yet believes, that but for the treatment of plaintiff, the child would have speedily recovered; and he avers, that the course of said treatment afforded him probable cause and reasonable grounds for entertaining and expressing that opinion; and that it was both his privilege and duty to do so.

He expressly denies all allegations and imputations of malice towards plaintiff, in the publications complained of, and avers that nothing but the friendliest feelings existed between plaintiff and him at the time of the treatment of

the child, and prior thereto. He says that so great was his confidence in plaintiff personally and professionally, that at first he attributed the terrible treatment and its disastrous effects to the medical system, and not to plaintiff's want of scientific skill, and so charged in the first publication made. But having afterward received a note from two prominent physicians, denying that the medical system was responsible for such treatment, and having examined standard medical authors in reference to treatment in such cases, he became satisfied that whatever defects there might be in the allopathic, or so-called regular, school of medicine, that said system was not responsible for the blundering and fatal treatment of his child by plaintiff, and he so charged in the second publication complained of.

He avers, the fact to be that the medical association of Paris, of which plaintiff was a member, and composed entirely of allopathic regular physicians, held a meeting for the purpose of hearing plaintiff's report of his treatment in this case, in order that it might pass on the regularity of said treatment, but that plaintiff did not dare to submit the same to a competent board of his own profession and school, and never did do so.

Defendant then became convinced that the extraordinary treatment of his child by plaintiff, was not only not sustained by any medical system, but a violation of all the laws of health, and of the rules of common sense, and in its operation and effect a cruel and fatal attack upon the vital powers of his child, and honestly so believing, he so charged in the last publication complained of.

And he avers, that said treatment afforded him probable cause and reasonable grounds for entertaining and expressing the opinions and making the charges contained in said publication, and that it was his privilege and duty to do so.

He expressly denies that he has ever charged or intimated that plaintiff wilfully killed his child; whether it was ignorance, a fit of insanity or confusion growing out of excitement, that caused this blundering and fatal treatment, defendant is unable to say. He only knows his child is dead; and he verily believes, that but for plaintiff's treatment, he would be alive to day, and the light of a once happy family.

He alleges that the profession of medicine is one of the most important known to society; because it involves the lives of the people; that plaintiff was at the time of the publications complained of, engaged in the practice of medicine in the city of Paris, and the county of Lamar, dealing and having to do with the citizens generally; that the relations of his profession and practice were, and are of a public nature and character in said community; and his actions and course of practice, if not judicious and proper, or if culpable in any respect, ought to be known to the people. And he avers that it was both his privilege and duty, honestly believing as he did, that plaintiff's treatment had killed his child, to make known the fact in the community where plaintiff practiced, lest others might suffer in loss of life or health, from erroneous treatment.

Defendant admits that it is true, that at the time of making the publications complained of, he was a citizen of the city of Paris, in Lamar county, Texas, and the editor, proprietor and publisher of a newspaper, entitled Common Sense, which paper had a considerable circulation in the community in which plaintiff practiced medicine, and also abroad. And it is also true that he did publish in said newspaper the several editorial articles, filed as exhibits with plaintiff's petition; but he denies that said publications are false, malicious or libellous.

He avers that said publications contain in substance a truthful statement of plaintiff's treatment of defendant's

child—a discussion of the probable effects of said treatment; and the allegation, that in defendant's opinion and belief, said treatment was the cause of the child's death. That at the time of making each of the aforesaid newspaper publications, defendant honestly, and in good faith, believed that plaintiff's treatment of the case caused his child's death, and that he yet so honestly believes; but from the very nature of the case cannot positively allege the fact to be so. He alleges that plaintiff's treatment of the case afforded him probable cause and reasonable grounds for entertaining and expressing the belief and opinions contained in the aforesaid newspaper publications; and it was his right, privilege and duty, as the father of the child, a citizen of the community, and the editor and publisher of a newspaper, to publish for the benefit of said community, the treatment his child had received at the hands of plaintiff, a practicing physican in that community; and of this he appeals to a jury of his country.

The premises considered, he prays for judgment of court dismissing him free of cost, and for all proper relief, general and special.

E. L. DOHONEY,  
 J. C. HODGES,  
 Attorneys for Defendant.

# FIRST SUPPLEMENTAL PETITION.

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In District Court, Lamar County.

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J. M. FORT  
vs.  
R. PETERSON. }

And now, on this day, comes the plaintiff in the above entitled-cause, and files this, his first supplemental petition, and exceptions generally, to defendant's amended original answer generally as being insufficient in law, and for special exceptions, says :

1st. That the facts and allegations as stated in said answer, as being privileged communications or publications, are not sufficient in law.

2d. That the facts and allegations as stated in said answer as to probable cause, are not sufficient in law.

And of this he asks the judgment of the court.

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,

Attorneys for Plaintiff.

**SECOND**

**AMENDED ORIGINAL ANSWER.**

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In District Court, Lamar County.

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J. M. FORT }  
vs. }  
R. PETERSON. }

Now comes the defendant, and with leave of the court, files his second amended original answer as a substitute for his first amended answer, filed April 2d, 1879; and for answer says, that the facts and allegations contained in plaintiff's petition, as therein set up, are not sufficient in law or equity, for him to have and maintain his action herein.

And for special exception says, that the plaintiff's petition does not show that the publications complained of, were made without probable cause. Whereupon he prays for judgment of court and general relief.

E. L. DOHONEY,  
J. C. HODGES,  
Attorneys for Defendant.

And if required to answer further, he denies all and singular the allegations contained in plaintiff's petition, not hereinafter admitted.

He denies that plaintiff was at the time alleged in the petition, a regular practicing physician, duly qualified to practice medicine, as therein alleged; he denies that plaintiff's treatment of his child was regular proper, scientific or correct; he denies that said treatment was in accordance with the rules of any medical school or system; he denies that said treatment was authorized by true medical science, and avers that it was in violation of the well known laws of nature, as applied to the human system; he denies all allegations and imputations of malice, contained in plaintiff's petition; he denies that he has charged the plaintiff with any crime known to the laws of the state; he denies that in any of the language contained in the publications complained of, he meant to imply that plaintiff had murdered his child, in a legal sense; he denies any ill-will towards plaintiff; denies that the publications complained of, were actuated by malice, or were intended to injure plaintiff; and he denies that plaintiff has sustained any damage by reason of said publications; he denies that the publications complained of, are false or libellous; he denies all other material allegations contained in said petition, not hereinafter admitted.

And for special answer, he says that he did make the publications complained of, in plaintiff's petition referred to as exhibits A, B and C, the language of which publications is fully set out in said petition; but he denies that said three publications are either false or libellous; on the contrary he avers that each of the said publications are true, and that said three publications together, contain a truthful statement of the history of the case—the treatment that defendant's child received at the hands of plaintiff, and the result of said treatment.

And upon this he appeals to a jury of his country. Wherefore, the premises considered, he prays for judgment of court dismissing him free of cost, and for proper relief, general and special.

E. L. DOHONEY,  
J. C. HODGES,  
Attorneys for Defendant.

## EVIDENCE.

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In District Court, Lamar County.

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J. M. FORT  
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### EXAMINATION.

Dr. A. S. Johnson—I have lived in Paris 19 years; have known Dr. J. M. Fort since he moved to Paris in 1868.

Dr. Fort's diploma was here offered in evidence. Objected to by defendant's counsel. Objection sustained.

Dr. Johnson (continuing)—I am a practicing physician, and have known Dr. Fort as a physician since he moved to Paris.

### CROSS EXAMINATION.

Dr. Fort once was a member of a mercantile firm, but still practiced his profession. As far as I know, the leading part of Dr. Fort's business was the practice of medicine. Have heard he owned a farm or two, but don't know.

## EXAMINATION:

Dr. J. F. Hooks—I am a physician; have known Dr. Fort 20 years or over, as a practicing physician; knew him at Boston, Bowie county, and since he moved to Paris, all of which time he has practiced his profession.

Articles published in Common Sense, were offered in evidence.

## RECALLED.

Dr. Hooks—I know of these communications and the death of plaintiff's child; Dr. Fort was doing a good practice before these defamatory publications appeared. In consequence of the publications referred to, Dr. Fort's practice became very much reduced for two or three years. These publications were much talked of through the country.

## CROSS-EXAMINATION.

Could not say positively that the publications above referred to caused the decrease of Dr. Fort's practice; don't know that the practice other city physicians decreased also, about the time referred to.

## EXAMINATION.

Dr. D. H. Gibson—Know Dr. J. M. Fort as a physician; I am a physician; know Dr. Fort's practice before the said publications in Common Sense, was very fair. From my frequent association with Dr. Fort, and with other persons, in my practice of medicine, I found that his practice was very seriously injured.

## CROSS-EXAMINATION.

Can only attribute the loss of Dr. Fort's practice to the articles in Common Sense; don't know of any particular person who changed physicians, or failed to employ Fort, on account of said publications.

## EXAMINATION.

Dr. Baldwin—I am a physician; know Dr. Fort; said publications in Common Sense, occurred before I came to the state.

Defendant admitted the ownership of the paper entitled Common Sense, and that he was responsible for its publications.

J. T. Record, clerk of district court, produced records of said court, and verified the same as authentic, and certified that Dr. J. M. Fort's certificate was registered under an act of 1873. Objected to by defendant's counsel. Objection overruled, and record admitted. Read extracts from papers, and comments of Common Sense connecting Dr. Fort's name with the doggerel, viz:

**“Europe Beckons to Americans who Can be Spared.**

“ While Europe breathes, stands and waits,  
And war in every rumor lurks,  
’Tis not too late for Sergeant Bates  
To go and join the Turks.—[N. Y. Commercial.

“ And even when war's harsh alarms  
Resound, time ample will remain  
For Wendell Phillips to take arms  
And join the Russian train.—[Boston Globe.

“ Let Mary Walker fly with speed  
To don her pants and gulp her tea,  
And mount a hungry mule and lead  
The Austrian cavalry.—[Graphic.

“ And why need ‘Eli’ linger here,  
His wond’rous yarns to try on?  
Let him across the ocean steer,  
And back the British li-on.—[World.

“ And why not Woodin his exit make,  
To bulldose Turk or Russian?  
And thus escape all ‘itching palms’  
And bombast, noise and fustian.—[Galveston News.

- “ And can we not spare Grant as well,  
 To lead the Ottoman to slaughter,  
 In hope that he may reach that h—l  
 Which welcomes him with fiendish laughter?—  
 [Gate City News.
- “ Then if the Porte’s still short of hands  
 To wield the crescent sword,  
 •We’ll pack and send them C. O. D.,  
 The late returning board.—[Jefferson Jimplecute.
- “ Now, whom can Paris spare the Porte—  
 The foe to panic in a trice?  
 She’ll send to Russia Dr. F—t  
 To slay her baby boys with ice!”

Also articles called Manslaughter, and Negligent Homicide. Objected to by defendant. Objection overruled, and articles admitted. Also articles from Jefferson Jimplecute, and Common Sense, criticizing and denouncing the profession of medicine, etc.

#### EXAMINATION.

J. T. Crago—I was postmaster in 1876; circulation of said Common Sense, at that time, was very large; it had the largest circulation of any of the city papers, and extended throughout the United States. At the time of the publication of said articles, the circulation of said paper increased, and continued to increase until it was moved to St. Louis.

#### EXAMINATION.

Dr. True—Am a druggist; have known Dr. Fort since 1873; his office has been at my store since that time; Dr. Fort had a good practice in 1876; his practice decreased very materially after the libellous publications in the said Common Sense; I filled most of his prescriptions; they fell off very much, and I called attention to it at the time; much of his practice is office practice, and I noticed the decrease in his office.

## CROSS-EXAMINATION.

I judge of the decrease in Dr. Fort's practice by a falling off of prescriptions; the sale of drugs is as good in summer as in winter; don't know whether Dr. Fort went to Louisville or Philadelphia, during the summer of 1876; don't know of any individual who discharged Dr. Fort on account of said publications.

## EXAMINATION.

Plaintiff—Am a practicing physician; before the said publications, was doing the largest practice that I ever did since my stay in Paris; have practiced medicine since 1851; after said publications my practice decreased very much, and know of no other cause for a decline.

## CROSS-EXAMINATION.

Have had other interests, but practicing medicine has engaged my entire attention. My farms have been run and my money invested in mercantile business; have practiced medicine in Paris since 1868; one half of my practice is in the country: but paying practice is office practice, which was seriously damaged. In 1876, July, I was a delegate to the medical association at Louisville, Kentucky; do not think that the absence referred to, would damage my practice, only for the length of time I was away; had no practice scarcely for 18 months after the said publications, but now it is improving; made no trip to Bowie county in 1876, except on my way to Louisville; was absent at Louisville only about three weeks; don't know whether the practice of medicine is as large now as it was in 1876.

## RE-EXAMINATION.

Dr. Gibson and Dr. Johnson were practicing medicine in 1876, but have retired on account of ill health. After said publications in the Common Sense, I could go no-

where without hearing the matter spoken of, and my practice and reputation as a physician was seriously damaged.

EXAMINATION.

Hedge Bland—Am tax collector of Lamar county, Texas.

The records introduced to show the value of R. Peterson's property in Lamar county, Texas, objected to by defendant, and objections sustained by the court.

Plaintiff rests.

Defendant opens by reading the depositions of Mrs. Mary A. Birmingham, Mrs. Emma Pierson, Mrs. Margaret Walker, Mrs. Susan C. Peterson, Miss Mollie F. Peterson, Miss Mary Holcomb, Miss Belle Holcomb, Capt. John O. Ewing, Irene McDonald, Pauline Ford and Gertrude Grant, taken by John P. Graham, a notary public in and for said county and state, on the thirteenth day of March, 1877, and which several depositions are as follows, to wit:

J. M. FORT	}	LIBEL.
vs.		
R. PETERSON.		

Suit pending in the district court of Lamar county.

SIR:—You will take notice that five days after service hereof, I shall apply to the clerk of the district court of Lamar county for a commission to take the depositions of Mrs. M. Coile, Mrs. Mary A. Birmingham, Mrs. Emma Pierson, Mrs. Margaret Walker, Mrs. Susan C. Peterson, Miss Mollie F. Peterson, Miss Mary Holcomb, Miss Belle Holcomb, Capt. John O. Ewing, Irene McDonald, Pauline Ford and Gertrude Grant, who reside in Lamar county, in answer to the following interrogatories, to be read in evidence in behalf of defendant on the trial of said cause.

R. PETERSON.

To J. M. Fort, or Maxey, Lightfoot & Gill and Wright & McDonald, his attorneys of record.

INTERROGATORIES to be propounded to Mrs. M. Coile, Mrs. Mary A. Birmingham, Mrs. Emma Pearson, Mrs. Margaret Walker, Mrs. Susan C. Peterson, Miss Mollie F. Peterson, Miss Mary Holcomb, Miss Belle Holcomb and Capt. John O. Ewing.

WITNESSES FOR DEFENDANT.

1st interrogatory to each of said witnesses :

What is your name and age, and where do you reside?

2d int. to each of said witnesses :

Are you acquainted with the parties to this suit? If yea, how long have you known them?

3d int. to each of said witnesses :

Are you acquainted with the family of the defendant? Did you know them on the 31st of July, 1876? If yea, then state how long before that date you knew them.

4th int. to each of said witnesses :

If, in answer to the next preceeding interrogatory, you say you are acquainted with the family of the defendant, R. Peterson, then state if he had an infant son about four years old, named Charles Darwin. If yea, then state if he is now living or dead. If dead, state when he died, giving the day of the month, day of the week, and hour of the day, as well as you can now recollect.

5th int. to each of said witnesses :

How long was the child, Charles Darwin, sick? Did you see him during his last sickness? Were you present at the time of his death? At what period of his last sickness did you first see him? How often did you see him during his last sickness, and how much of your time did you spare with him?

6th int. to each of said witnesses :

If, in answer to the next preceeding interrogatory, you say you saw the child, Charles Darwin, during his last sickness, then state what was the matter with him. Did he have fever? Did he have a chill? How was he first taken? Of what did he complain? What was his appearance? Describe how he looked and acted. During his sickness, was he rational or irrational? If you say he was sometimes rational and sometimes irrational, then state what portion of the time he was irrational. State at what stage of his sickness he first became irrational, and under what particular circumstances. Did any physician attend him, and, if so, who?

7th int. to each of said witnesses :

If, in answer to the next preceeding interrogatory, you say a doctor did attend said sick child, then at what stage of the attack he was called in? Was any medicines given the child? If yea, state what kind; and if more than one kind was given, then state how many kinds were given. State how frequent each particular kind of medicine was given (if given more than once) and in what quantities. What particular effect did each particular medicine given appear to have on the child (if any particular effect was produced)? Was anything else done by said attending physician, for said child? If yea, state what else was done. If you say cold water was applied to the child's head, then state at what stage of the sickness the cold water was first applied. How long was the application of cold water continued? Under what circumstances was the cold water first applied to the child's head? How was it applied, and in what quantities? Did you examine or observe the child's pulse immediately before and during the time the cold water was being applied to the head? If yea, state their conditions, and what effect the application of the cold water had on the pulse (if any particular

effect was produced). If you say ice was also applied to the sick child's head, then state at what particular stage of the sickness ice was first applied, and under what particular circumstances. How long was the application of ice to the child's head continued? In what quantities was it used? State the particular manner of its use. How was it applied to the child's head? If you say, some was placed under the head, some around it and some on it, then state the quantities so used at a time. Was the ice in cloths or sacks? If in sacks, what size were the sacks? How many pounds would they hold? How many sacks were used? How was the ice prepared? Was it beat up fine, or was it used in large lumps or pieces? Was the ice applied to all parts of the head at the same time—under, over and around it? How long was the ice continuously applied? How many hours? How long before the death of the child was it that the application of ice to the child's head was discontinued? Or was it that the ice was withdrawn from the child's head?

8th int. to each of said witnesses :

If in answer to the next preceeding interrogatory you say you were present and witnessed the application of ice to the head of the child, Charles Darwin, during his last sickness, then state if you examined or observed the child's pulse during such application? If yea, then describe their condition. Were they low or high, quick or slow? Describe particularly. If you say you watched the pulse closely, state how they were at the wrists and ankle. What effect did the ice to the head have upon the pulse? Were the hands and feet warm or cold? If cold, what efforts (if any) were made to warm them? With what success? How long before the death did the pulse cease at the wrists and ankles? Did you examine the child's head during the application of the ice? Was it hot or cold? Did you notice the child's face, lips, eyes, etc.? If yea, how did

they appear? Did they appear cold and chilly, or warm and feverish? Did the child complain? If yea, of what and how did it complain? Did you pay particular attention to said child during its sickness? If yea, state what particular attention you gave it. If you say you sat up with and assisted in nursing said child and in administering to it the medicine according to the doctor's directions, then state if the doctor's directions were strictly followed. Was the ice applied according to the doctor's directions? Did he know of the manner of its use and the quantity used? Of all the things enquired of, please be particular and answer fully.

R. PETERSON, Defendant.

January 15th, 1877.

We accept the service and waive notice of the foregoing interrogations, and copies reserving all legal rights and exceptions.

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,  
Attorneys for Plaintiff.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

Suit pending in the district court of Lamar county.

J. M. FORT }  
vs. } LIBEL.  
R. PETERSON. }

Cross interrogatories to be propounded on the part of plaintiff to defendant's witnesses, Mrs. M. Coile, Mrs. Mary A. Birmingham, Mrs. Emma Pierson, Mrs. Margaret Walker, Mrs. Susan C. Peterson, Miss Mollie F. Peterson, Miss Mary Holcomb, Miss Belle Holcomb, Capt. John O.

Ewing, Irene McDonald, Pauline Ford and Gurtrude Grant.

1st Cross-interrogatory to all said witnesses :

Were you present when Charles D. Peterson, deceased, was first taken sick? Were you present when he died? Please state the precise time when you first saw him, how long you stayed, the precise time you left, how long you stayed away; the precise time you came back the second time, how long you stayed, the precise time you left, and in like manner precisely the time and duration of each visit you made said child, Chas. D. Peterson, during his his last illness.

2d cross-int. to all of said witnesses :

If in answer to interrogatory 6th you attempt to state what was the matter with said child, please state if what you say was the matter with him. Is it an expression of your own opinion as to his disease, or of what you were told by others?

3d cross-int. to all of said witnesses :

Please state how long the child had been seriously ill when the physician was first called in. If, in answer to interrogatories 6th and 7th you say one was called in, state when the physician first arrived, give the precise time and your means of knowing, and whether you were present when he first came.

4th cross-int. to all said witnesses :

If you undertake to state anything in regard to the kind or kinds of medicine and quantities thereof given said child, in answer to interrogatory 7th, please tell how you acquired your information on those points. State how you learned what kind or kinds and quantities of medicine were given. From whom did you get you information? Please state fully how many and what kinds of medicine, what quantity of each at a dose and in what composition or

combination were given said child. If you undertake to state anything in regard to the amount of ice applied in sacks to said child's head, then state if you handled said ice. Was it weighed, or is your statement of its weight, if you have made any, merely your opinion or guess to its weight? If you say it weighed a certain amount, give your means of knowing it.

5th cross-int. to all said witnesses :

Please state if you are now or ever have been a practicing physician. If yea, then state when and where you graduated, from what medical school, and in what system of medicine. How long have you practiced medicine? Are you conversant with the properties of medicine, their curative and chemical effects? Are you accustomed to diagnose diseases, and are you familiar with the effects produced by diseases upon persons?

6th cross-int. to all said witnesses :

If you have stated in answer to the direct interrogatories that you sat up with and administered medicines to said child, or assisted in so doing, and that the doctor's directions were strictly followed as to administering medicine and other treatment, please state what the doctor's directions were; state them fully particularly and specifically; state how you knew what were the doctor's directions. Were there special directions for each particular medicine and for each item of treatment? If yea, state such directions specifically and especially to what medicine and point of treatment each direction belongs; state from whom you received the direction; state fully your means of knowing.

MAXEY, LIGHTFOOT & GILL,  
 WRIGHT & McDONALD,  
 Attorneys for Plaintiff.

STATE OF TEXAS, }  
 LAMAR COUNTY. }

I, J. P. Graham, a notary public within and for said Lamar county, by virtue of a commission to any lawful officer of Lamar county, state of Texas, authorized to take depositions, directed from the clerk of the district court of said Lamar county, Texas, in a suit now in said court pending, wherein J. M. Fort is plaintiff and R. Peterson is defendant, have caused Mrs. M. Coile, Mrs. Mary A. Birmingham, Mrs. Emma Pierson, Mrs. Margaret Walker, Mrs. Susan C. Peterson, Miss Mollie F. Peterson, Miss Mary Holcomb, Miss Belle Holcomb, Captain John O. Ewing, Mrs. Irene McDonald, Pauline Ford and Gertrude Grant, the witnesses in said commission named, to appear before me, and, after being duly sworn true answers to make to the interrogatories and cross-interrogatories accompanying said commission, the said witnesses severally answering thereto in the order hereinafter following, respectively say:

JOHN O. EWING.

John O. Ewing being duly sworn as aforesaid, says:

1st answer to interrogatory :

My name is John O. Ewing ; am 43 years of age ; reside in Paris, Lamar county, Texas.

2d Ans. to int.

I am acquainted with them ; I have known them about four years :

3d Ans. to int.:

I know Peterson, but am not particularly acquainted with his family ; I saw his family something about the 31st of July, A. D. 1876 ; I did not know them before that time.

4th Ans. to int :

Defendant had a little son named Charles Darwin, about that age ; he is dead ; according to my best recollection, the said child died in the last of July, 1876, somewhere between the hours of 6 and 7 o'clock p. m.

6th Ans. to int :

I do not know how long he was sick : I saw him about four hours before his death for the first time ; I was not present at the exact time of his death ; I had gone to my supper, and when I returned, he was dead ; I saw him as before stated, four hours before his death, and remained with with him from that time until about 6 o'clock, when I went to my supper, and when I returned, he was dead ; was absent about one hour.

6th Ans. to int. :

I cannot tell what was the matter with him ; I do not know whether he had fever or not ; I do not know whether he had a chill ; I do not know how he was first taken ; I never heard him complain, except he said, "Oh, mama, I's so sick !" When I first saw the child his lips and finger nails were purple ; he seemed to be cold ; we were rubbing him with mustard and things of that sort to warm him up ; he lay still most of the time I was with him ; cannot state whether he was rational or irrational during the time I was with him ; he seemed to be in a kind of dormant state. Dr. J. M. Fort and Dr. Gibson were the only physicians I saw in attendance on him.

7th Ans. to int :

I do not know at what stage he was called ; as to those parts of this interrogatory concerning medicines and their effects, I can answer nothing, not being enough acquainted with the medicines used to recollect their names, and did not charge my memory with them, and can only answer as to the ice ; don't know when the ice was first applied ;

they had ice to the child's head when I first got to him ; I know not by whose order, and the ice was continuously applied all the time afterwards up to the time I left, that I know of ; the ice was beat up fine and put in indiarubber bags, or sacks ; about three sacks were used at a time ; they were put on the top and at the sides of his head, and was beat up fine ; don't recollect whether they had ice under his head ; the ice was around his head and on his forehead, besides ; don't know whether the ice was discontinued or not, it was there when I left—that is on the child's head, and the child was dead when I returned.

8th Ans. to int :

I did not examine the child's pulse ; I felt the child's hands and feet, however, and they were cold ; we put some mustard and something of the sort, to the child's feet to warm them ; did not examine the child's head sufficiently to answer whether it was hot or cold ; did notice his face and eyes, and, as before stated, his lips and hands were purple, his face also looked purple, and he appeared cold ; the child complained, as before stated in my hearing ; did not pay any very particular attention as compared with some others who were there ; I helped nurse and wait on it for nearly four hours ; cannot say as to the medicines ; the doctor (J. M. Fort) was there all the time ; I was there and saw the application of the ice ; Dr. Gibson was there a part of the time.

JNO. O. EWING.

CROSS-EXAMINATION.

To the cross-interrogatories witness, Jno. O. Ewing, answers as follows :

1st Ans. to cross-int :

I was not present when he first took sick ; I was not ; I first saw him about 2 o'clock p. m. on some one of the last days of July, A. D., 1876 ; do not remember the day of the

month or of the week exactly, it was the day on which he died, however; I stayed about four hours; left about 6 o'clock p. m., precisely, as I recollect; I came back the second time about 7 o'clock precisely, as I can recollect; the first I stayed with the child, about four hours; I remained away from the child about one hour; I returned and found him dead, about 7 o'clock.

2d Ans. to cross-int :

I do not attempt to give my opinion of the child's disease.

3d Ans. to cross-int :

Do not know how long the child had been seriously ill when the doctor was called in; do not know when the physician was first sent for, nor when he came.

4th Ans. to cross-int :

I did not attempt to give any information about the medicines used and their effects, except as to the ice and mustard, and the application of the ice and its effects, I saw myself; I beat up the ice and put it in the bags—that is some of it; there were others there who did some of it; it was not weighed that I know of; we estimated the sacks to contain each about one-half pound of mashed up ice; my statement is a mere estimate; my means of knowing is my experience, having handled a good deal of ice.

5th Ans. to cross-int :

I have not been, and am not a practicing physician. I am not accustomed to diagnose diseases, and know nothing about medicines as a physician, nor about their chemical effects, nor the effects of diseases, except from personal observations.

6th Ans. to cross.int :

I have not stated in answer to direct interrogatories the manner of treatment, the giving of medicines and the following of directions; do not know what the directions

were, or whether they were followed or not, strictly; all I know about this part of the subject is in reference to the ice and its application, and that Dr. Fort was present during the time I was present, and witnessed the application of the ice.

JNO. O. EWING.

Sworn to and subscribed before me, by the said Jno. O. Ewing, this the fifteenth day of February, A. D., 1877.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar Co., Texas.

MARY A. BIRMINGHAM.

Mrs. Mary A. Birmingham, being duly sworn, answering to said interrogatories and cross-interrogatories, says:

1st Ans. to int:

My name is Mary A. Birmingham; age, 50 years; reside in Paris, Texas.

2d Ans. to int:

Am acquainted with said parties; have known them several years.

3d Ans. to int:

Am acquainted with defendant's family; was acquainted with them on said 31st of July, 1876; knew them several years before that date.

4th Ans. to int:

Defendant had such an infant son; he is dead; he died about the 31st of July, 1876, on Monday evening just about dark, according to the best of my recollection.

5th Ans. to int:

Do not know when he first became sick; saw him du-

ring his last sickness ; was not present at the time of his death ; I first saw him in the morning of the day of his death ; saw him twice ; spent only an hour or two each time.

6th Ans. to int :

Do not know what was the matter with him ; his skin did not indicate fever ; was not hot ; do not know whether he had a chill or not ; I know not how he was first taken ; did not hear him complain ; he looked chilled and livid, and appeared to be in a stupor ; he appeared to be rational all the time I saw him—that is, when he roused from his stupor—and seemed to know what his sister was doing for him when she would give him something to drink, or ice to chew ; do not know when he first became irrational ; Drs. Ford and Gibson attended him.

7th Ans. to int :

Can not answer the first question of this interrogatory ; know nothing about the medicines ; did not notice the medicines or their effects, nor the pulse of the child ; the ice was on the child all the time I saw it, and had wet the child's back until its clothing under it and the bed-clothing were as wet as they could be ; the ice was put around the child's head, three or four little sacks being used at a time ; the ice was in the sacks ; do not know how much the sacks would hold ; they were several inches in length ; about three or four sacks were used at a time ; the ice was pounded up ; do not know how fine ; do not know how many pounds they would hold ; do not know whether there was any ice under the head ; it was on top and around the sides ; the ice was applied while I was there ; know not how long afterwards ; saw the child near sunset on the day he died, for the last time while living ; the ice was still applied at that time ; do not know that the ice was discontinued at all.

8th Ans. to int :

The child's pulse was neither high nor low ; I expressed hope to Mr. Peterson, when I felt the child's pulse ; that was in the morning of the day of the child's death ; the ice was being applied at the time ; the pulse was not very quick nor very low at that time, but seemed to be good ; do not know what effect the ice had upon the pulse, because I did not notice it long enough, but the pulse was not high in the morning of the day mentioned ; the hands and feet were cold ; they were rubbed with mustard ; it seemed to warm them somewhat, but not very much ; they kept them wrapped in flannel also, when not being rubbed ; the child's face appeared livid, as if with cold ; its lips were blue or purple ; his eyes were closed so much that I can not tell how they appeared ; did not pay particular attention to the child during its sickness ; know nothing further of this interrogatory.

MARY A. BIRMINGHAM,

CROSS EXAMINATION.

To the cross interrogatories witness, Mary A. Birmingham answers as follows :

1st Ans. to cross-int :

I was not so present ; was not present when he died ; in the morning on Monday, July 31st, 1876, as precisely as I recollect, an hour or two ; about 12 o'clock ; I stayed away about four hours ; came back about 4 o'clock same day ; stayed till about sunset, and left at that time ; made only the two visits during his sickness.

2d Ans. to cross-int :

I did not attempt to state what was the matter with the child.

3d Ans. to cross-int :

Don't know how long ; I know nothing of this interrogatory.

4th Ans. to cross-int :

Know nothing of the first part of this interrogatory ; did not handle the ice ; I gave no opinion of its weight.

5th Ans. to cross-int :

Am not, and have never been, a practicing physician ; am not conversant with the properties of medicines as a physician, and not much conversant with them any way except from personal observation ; I am not.

6th Ans. to cross-int :

I know nothing in answer to cross-interrogatory 6th.

MARY A. BIRMINGHAM.

Sworn and subscribed before me, the said witness, Mary A. Birmingham, this February 6th, 1877.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar County, Texas.

PAULINE FORD.

Mrs. Pauline Ford being duly sworn, as aforesaid, answering says :

1st Answer to interrogatory:

My name is Pauline Ford ; my age is 28 years ; reside in Paris, Texas.

2d Ans. to int :

I am acquainted with them ; I have known them several years :

3d Ans. to int :

Am acquainted with defendant's family ; was acquainted

with them on the day mentioned; knew them several years before.

4th Ans. to int:

Defendant had an infant son named Charles Darwin, about four years old; can not say, of my own knowlege; did not see him after death, and was not present when he died.

5th Ans. to int:

I do not know how long he was sick: I saw him once only; the evening before he died; was not; was with him only about one-half hour.

6th Ans. to int:

I cannot tell what was the matter with him; I do not know whether he had fever or not; I do not know whether he had a chill; I do not know how he was first taken; I never heard him complain; do not remember his appearance; don't know whether he was rational or not; saw no physician present while I was there.

7th Ans. to int:

Know nothing of the facts asked about in interrogatory 7th, and can not answer.

8th Ans. to int:

Know nothing of the matters referred to in interrogatory 8th.

PAULINE FORD.

CROSS-EXAMINATION.

To cross-interrogatories, she says:

1st Ans. to cross-int:

Was not present at the time; was not present when he died; the first time I saw him in his sickness, was about the middle of the evening before the day of his death; I

stayed about half an hour; did not return to see him; I left about half an hour after I came.

2d Ans. to cross-int :

I do not attempt to state.

3d Ans. to cross-int :

I do not know how long the child had been ill; know nothing further to this interrogatory.

4th Ans. to cross-int :

Have stated nothing about medicines or ice; I know nothing further to this question.

5th Ans. to cross-int :

Am not, and never have been, a practicing physician; am not acquainted with medicines, or their effects.

6th Ans. to cross int :

I have stated nothing in regard to treatment, medicines, directions, etc., and know nothing further to this interrogatory.

PAULINE FORD.

Sworn to and subscribed before me by said witness, Pauline Ford, this February 6th, A. D. 1877.

[SEAL.]

J. P. GRAHAM,  
Notary Public,  
Lamar County, Texas.

MISS BELLE HOLCOMB.

Miss Belle Holcomb being duly sworn, as aforesaid, answering says:

1st answer to interrogatory :

My name is Bell Holcomb; am over 21 years of age; reside in Paris, Lamar county, Texas.

2d Ans. to int :

Am acquainted with both ; have known Peterson since 1874 ; have known Dr. Fort about one year.

3d Ans. to int.:

Am acquainted with defendant's family ; was acquainted with them at the date mentioned in interrogatory ; knew them since 1876.

4th Ans. to int :

Peterson had such an infant son ; he is dead ; he died on Monday evening, late ; I was not with him at the precise time of his death, sometime in the last of July ; do not recollect the exact day in 1876.

5th Ans. to int :

I do not know how long he was sick ; saw him during his last sickness ; was not present at the time of his death ; I first saw him on Sunday, before his death, between 3 and 4 o'clock ; I was there only once ; I went there Sunday evening and left next morning about 9 o'clock ; remained all night there.

6th Ans. to int :

I do not know what was the matter with him ; do not know whether he had fever or not, nor whether he had a chill ; don't know how he was first taken ; did not hear him complain ; his appearance was deathly, his face appeared very pale ; he seemed to be rational at times and irrational at times, mostly ; he seemed to be sleeping most of the time ; do not know when he first became irrational ; Dr. Fort attended him while I was there.

7th Ans. to int :

I do not know when he was first called in ; medicine was given to the child very often ; do not know what kind it was ; cannot tell the effect, except that the child was in a stupor most of the time, or sleeping ; ice was applied to the child, but before the ice water was applied to the

child's head (as far as I know) cold water; the water was applied on Sunday evening; the water was applied for about an hour, as I recollect it; it was applied in wet towels in large quantities; I did not examine the pulse; don't know at what time ice was applied, I only know that it was applied about an hour after I got to Mr. Peterson's after applying the ice water; the ice was continued on the child's head, to my knowledge, in the evening about an hour after I got there, all through the night, and was still being applied when I left on next morning; as before stated, the ice was in cloths until Monday morning, when it was put in rubber bags around its head and on top of its head; don't know whether any was placed under its head; the sacks, or bags, were about as large as one's hand; two at least were placed on at a time; don't know how many pounds they would hold; the ice was beat up some fine and some not so fine; don't know whether the application of the ice was discontinued or not before the child's death.

8th Ans. to int :

I did not examine the child's pulse; the ice had the effect to make the child's head perfectly cold; did not examine his feet, but did his hands, which were cold; they were rubbed with mustard, and hot bricks were used; did not succeed in warming them; I speak of all the time I was present, as before stated; the child's lips were purplish, his eyes bluish, and his face very pale; I was sitting by the child's head during a good part of my visit, keeping ice to its head, according to my instructions; did not administer any medicine; don't know whether the doctor's directions were strictly followed or not; the doctor saw me putting on the ice, Dr. Fort; as just before stated, Dr. Fort witnessed the manner of my using it; he did not object; do not know of my personal knowledge, what his exact directions were.

BELLE HOLCOMB.

## CROSS-EXAMINATION.

To the cross-interrogatories, she answers :

1st Ans. to cross-interrogatory :

I was not present at the time; I was not present at the time he died; I first saw him on Sunday evening between 3 and 4 o'clock, near the last day of July, or thereabouts, 1876, in his last sickness; I remained until next morning about 9 o'clock, between 9 and 10, on Monday morning, the day of his death, I think July 31st, A. D., 1876, as near as I can recollect; I made but the one visit during his last sickness.

2d Ans. to cross-int :

Did not give my opinion as to the child's disease.

3d Ans. to cross int :

I do not know how long the child had been ill before the doctor was called; don't know when he first came.

4th Ans. to cross-int :

I did not attempt to give any evidence about the medicines, except that while I was there, a good deal was given; I derive my information of that fact from what I saw, and have been careful not to repeat any thing I have heard; I have received my information from no one; I know nothing about the kinds or quantity of each kind of medicine used; I handled some of the ice used; it was not weighed that I know of; have made no statement of weight.

5th Ans. to cross int :

Am not now and never have been a practicing physician : am not conversant with the properties and curative or chemical effects of medicines; am not accustomed to diagnose diseases, and am not familiar with their effects.

6th Ans. to cross-int :

I have stated that I knew nothing of the doctor's directions as to medicines, treatment, etc.

BELLE HOLCOMB.

Sworn to and subscribed before me, by the  
said Belle Holcomb, this the eighth day  
of February, A. D., 1877.

[SEAL.]

J. P. GRAHAM,  
Notary Public,  
Lamar Co., Texas.

MARY HOLCOMB.

Miss Mary Holcomb, being duly sworn as aforesaid, answering, says:

1st Ans. to interrogatory:

My name is Mary Holcomb; am over 21 years of age; reside in Paris, Lamar county, Texas.

2d Ans. to int:

Am acquainted with both; have known Peterson since 1874; have known Dr. Fort about one year.

3d Ans. to int.:

Am acquainted with defendant's family; was acquainted with them at the date mentioned in interrogatory; knew them a year or two before that time.

4th Ans. to int:

Peterson had such an infant son; he is dead; was not there when he died, and can not tell.

5th Ans. to int:

I do not know how long he was sick; saw him once during his sickness; was not present at the time of his death; I saw him on Sunday evening before his death, about 3 or 4 o'clock, and remained all night, but did not sit up, or help to nurse the child.

6th Ans. to int:

I do not know what was the matter with him; do not

know anything further of my own knowledge in answer to this interrogatory.

7th Ans. to int :

Know nothing in answer to this interrogatory, except that I saw a great deal of ice applied, but can not say how or under whose directions it was done.

8th Ans. to int :

Know nothing in answer to this interrogatory, except that I once put my hand on the child's head, just before I left, and found it very cold.

MARY HOLCOMB.

CROSS-EXAMINATION.

To cross-interrogatories, she says :

1st Ans. to cross-int :

Was not present when he was first taken sick ; was not present when he died ; the first time I saw him was during his last sickness, during the last of July, 1876, on Sunday evening, between 3 and 4 o'clock ; stayed at defendant's house until next morning about 9 or 10 o'clock ; made but one visit.

2d Ans. to cross-int :

I did not attempt to state.

3d Ans. to cross-int :

I have answered ; did not know when the physician was first called in ; do not know when he first arrived.

4th Ans. to cross-int :

Made no such statement, and know nothing about the medicines ; made no statement as to ice, except that I saw it applied largely ; I know nothing of its weight or quantity, or the manner of its application.

5th Ans. to cross-int :

Am not, and never have been, a practicing physician ; am not conversant with the properties nor chemical and curative effects of medicines ; am not accustomed to diagnose diseases, nor familiar with the effects of diseases on persons.

6th Ans. to cross-int :

I have stated nothing in regard to treatment, medicines, directions, etc., and know nothing further in answer to this cross-interrogatory of my own personal knowledge.

MARY HOLCOMB.

Sworn to and subscribed before me by said witness, Mary Holcomb, this February 8th, A. D. 1877.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar County, Texas.

MRS GERTRUDE GRANT.

Mrs. Gertrude Grant being duly sworn, answering to said interrogatories, says :

1st Ans. to int :

My name is Gertrude Grant ; am 30 years of age ; reside in Paris, Texas.

2d Ans. to int :

Am slightly acquainted with the parties to this suit ; first became acquainted with the plaintiff I think last spring, 1876 ; have known defendant about one year.

3d Ans. to int :

Am acquainted with defendant's family ; knew them at the date mentioned ; I knew the family, except defendant, for several years before that date.

4th Ans. to int :

Defendant had such a son ; he is dead ; he died in the evening about 7 or 8 o'clock, during some month in the summer of 1876 ; cannot recollect exactly the day of the week or month, nor month of the year.

5th Ans. to int :

Do not know how long he was sick ; saw him during his last sickness ; was not present when he drew his last breath, but was present a few moments before ; I first saw him during his last sickness, about two hours before his death ; I saw him once and spent about two hours with him.

6th Ans. to int :

Do not know what was the matter with him—that is, what the disease was ; don't know whether he had a chill or fever ; don't know how he was first taken ; I heard him make no intelligible complaint ; his face was very pale, except blue spots about on his face ; his teeth would chatter occasionally, as if with cold, his lips were purple, and his hands about his finger nails were almost black, they were so purple ; he would occasionally struggle as if to change his position ; cannot tell whether he was rational or irrational, except that once while I was there his mother called him and he answered her after she had called him several times ; the plaintiff, Dr. J. M. Fort, was in attendance on the child while I was there.

7th Ans. to int :

Don't know at what stage of the attack he was called in ; don't remember positively enough about the medicines to state anything concerning them ; I was not present when cold water was applied to the child's head, if that was ever done, but arrived afterwards ; when I arrived ice was being applied to the child's head ; do not know at what par-

ticular stage the ice was first applied; don't know whether the ice was discontinued or not up to the death of the child; I left and was gone an hour, and when I returned the child was dead, and already dressed; when I left the child was alive, though in a seemingly dying condition, with the ice still applied to its head; the ice was used in rubber sacks; it was beat up in rather small chunks; three or four of these sacks were applied at a time around the head, on the top and on the forehead; cannot give the quantity in a sack, they were being constantly replenished; the ice was applied all the time I was there, during the child's life.

8th Ans. to int:

I examined the pulse of the child, but have forgotten how it was, and do not remember the effect of the ice upon the pulse; his hands and feet were cold; they put something hot to his feet, with what success or effect I do not remember; I did examine the child's head and found it cold; I have already answered as to the appearance of the child; gave no very particular attention, except as a friend, and gave no medicines; know nothing of the doctor's directions—that is, Dr. J. M. Fort, except in one instance, as to ice, while I was in the room of the said sick child Dr. Fort came in and felt his pulse, and then filled a sack of ice and put on the child's head himself; this is all I know about his directions.

GERTUDE GRANT.

#### CROSS-EXAMINATION.

To the cross-interrogatories, she answers:

1st Ans. to cross-interrogatory:

I was not present when he was first taken sick; was not

present at the precise moment when he died ; do not recollect the precise month, or day of the month, or week, but it was in the summer of 1876, about five or six o'clock in the evening ; I stayed about two hours, when I left ; I stayed away about one hour ; came back in about an hour from the time I first left ; I made but one visit during its sickness before its death.

2d Ans. to cross-int :

I gave no opinion as to what was the matter with the child.

3d Ans. to cross-int :

Do not know how long the child had been seriously ill when the physician was first called in ; do not know when he first came ; was not present when he first came.

4th Ans. to cross-int :

I stated nothing as to medicines—that is nothing positive ; do not know how much, nor what kinds of medicines were used ; I only handled the ice to the extent of trying it about on the child's head at times ; do not know that it was weighed ; I make no statement of its weight.

5th Ans. to cross.int :

I am not and have never been a practicing physician ; am not conversant with the properties, curative and chemical effects of medicine ; am not accustomed to diagnose diseases, and am not familiar with the effects produced by diseases upon persons.

6th Ans. to cross-int :

I have not attempted to state anything about the administering of medicines and their use in this case, nor of the doctor's directions, except as to the instance mentioned by me in which the doctor applied the ice, and that I saw myself ; I have given no evidence herein except what

I have witnessed personally, and know nothing further in response to this cross-interrogatory.

GERTRUDE GRANT.

Sworn to and subscribed before me by said witness, Gertrude Grant, this February 9th, A. D., 1877.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar Co., Texas.

MRS. MARGARET WALKER.

Mrs. Margaret Walker being duly sworn as aforesaid, answering says:

1st Answer to interrogatory:

My name is Margaret Walker; my age is 44 years; reside in Paris, Texas.

2d Ans. to int:

I am acquainted with them; I have known them several years:

3d Ans. to int:

Am acquainted with defendant's family; was acquainted with them on the day mentioned.

4th Ans. to int:

Defendant had such an infant son; he is dead; he died on Monday, about 8 o'clock, in July, 1876, as well as I recollect; don't recollect the day of the month.

5th Ans. to int:

Do not know how long he was sick; saw him during his last sickness; was not present at the time of his death; left just a while before; I first saw him about 3 o'clock on the day mentioned above; went to see him but once; spent only about an hour at the house.

6th Ans. to int :

Do not know what was the matter with him ; do not know whether he had a chill or fever ; did not examine closely ; he looked to me more like he had a chill, but I can give no opinion about his disease ; I know not how he was first taken ; did not hear him complain ; he looked rational when I came in, but appeared to get in a stupor of some kind ; he did not look flushed ; his lips looked sort of blue, but I did not notice him closely enough to remember just how he did look ; Dr. Fort was the only physician attending him while I was present.

7th Ans. to int :

I do not know, of my own knowledge, at what stage of the disease the doctor was called in ; know nothing in answer to this interrogatory.

8th Ans. to int :

Know nothing in answer this interrogatory, and gave no particular attention to said child's disease, and did not nurse it any.

MRS. MARGARET WALKER.

CROSS-EXAMINATION.

To the cross-interrogatories witness, answers as follows :

1st Ans. to cross-int :

I was not so present ; was not present when he died ; I first saw him in his last sickness, about 3 o'clock on Monday morning, in July, 1876, I do not recollect the day of the month ; about an hour ; about 4 o'clock a. m., on the same day ; I did not even take off my bonnet ; I went but once.

2d Ans. to cross-int :

I did not attempt to state what was the matter with the child, as asked in this cross-interrogatory.

3d Ans. to cross-int :

Don't know how long the child was seriously ill when the physician was called in, nor when the physician first arrived ; was no present when he first came.

4th Ans. to cross-int :

Do not undertake to state anything of the medicines used, nor the water or ice ; I saw so little of the medicine and ice, etc., used, that I do not want to give my opinion.

5th Ans. to cross-int :

Am not, and have never been, a practicing physician ; am not conversant with the properties of medicines as a physician, and not much conversant with them any way ; nor accustomed to diagnose diseases, etc.

6th Ans. to cross-int :

Have not made any statement as to sitting up with the child, administering medicines, nursing, etc.; know nothing further to this interrogatory.

MRS. MARGARET WALKER.

Sworn and subscribed before me, the said witness, Mrs. Margaret Walker, this February 22d, A. D. 1877.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar County, Texas.

MRS. IRENE MCDONALD.

Mrs. Irene McDonald being duly sworn as aforesaid, answering, says :

1st Ans. to interrogatory :

My name is Irene Wright McDonald; am over 22 years of age ; reside in Paris, Lamar county, Texas.

2d Ans. to int :

Am acquainted with the parties; have known them since 1872.

3d Ans. to int :

Am acquainted with defendant's family; knew them at that date; knew them prior to that from 1872.

4th Ans. to int :

Defendant had such a son; he is dead; died in the summer of 1876, in July, on Monday evening; do not recollect the day of the month.

5th Ans. to int :

Don't know how long he was sick; I saw him during his last sickness; was not present at his death; on Monday morning, the day of his death; I first saw him during his last sickness; saw him twice; spent about five or six hours with him.

6th Ans. to int :

Do not know what was the matter with him; do not know whether he had fever or not; don't know whether he had a chill; don't know how he was first taken; did not hear him complain; he looked like a very sick child; cannot say as to his rationality or irrationality; Drs. Gibson and Fort attended him.

7th Ans. to int :

Don't know at what stage the doctor was first called in; know nothing of the medicines given except a dose of the solution of chloral; don't know what effect it had; did not examine the child's pulse after the taking of the chloral; saw no cold water applied; ice was applied, but at what particular stage of the sickness it was applied don't know; don't know how long the ice was continued; do not know when

they put it on nor when they took it off; can not state positively in what quantities the ice was applied; the ice was applied in bags, oil-cloth or rubber, I do not remember which; the ice was placed on the top and at the sides of the child's head; the sacks were about as large as a lady's hand when filled; don't know how many pounds they would hold; the ice was beat up not very fine; I have stated that the ice was applied to the top and sides of the child's head at the same time; don't know when the ice was taken off.

8th Ans. to int :

I examined the child's head several times during the application of the ice, but as stated before, not with reference to the effect of the chloral; the pulse was frequently very weak and slow—exceedingly so—but when we would rub the child's extremities with mustard and excite them, we could feel the pulse distinctly, and then it was rather strong; I have not stated that I examined closely; do not know what particular effect the ice had upon the pulse, as the ice was continually applied during my visits; the hands and feet were cold, except as we rubbed and excited them with the hand and with mustard; did not examine the child's head particular enough to say whether it was hot or cold, during the application of the ice; the child's lips were purple; do not remember the expression of his eyes, nor particularly the appearance of his face; they looked cold; I paid no particular attention to the giving of medicines; I only poured out a spoonful of the chloral, before mentioned, but did not give it myself; I gave no medicines; did not nurse the child, only assisted to do so; know nothing about the doctor's directions; doctor Fort was present when the ice was applied, at several times.

IRENE McDONALD.

## CROSS-EXAMINATION.

To cross-interrogatories, she says :

1st Ans. to cross-int :

I was not present when the child was first taken sick ; I was not present when he died ; I first saw him between 9 and 10 o'clock on the morning of the day he died, on Monday, in July, 1876 ; I stayed about three hours ; left at 12 o'clock of the same day ; I returned about 2 o'clock p. m. of the same day ; stayed away about two hours ; I stayed there on my second visit about three hours and a half ; I made but the two visits during the child's sickness, before his death, and the time and dates are as precise as I can give.

2d Ans. to cross-int :

I gave no opinion as to what was the matter with the child.

3d Ans. to cross-int :

I do not know how long the child was taken sick before the physician was first called in, or how long he had been seriously ill ; do not know when the physician was first called in ; was not present when he came.

4th Ans. to cross-int :

Have made no statements about medicines, their kinds or quantities used, nor the directions concerning them, except the dose of chloral, which I saw myself ; know nothing further in answer to this interrogatory ; I handled a very small portion of it ; don't know whether some of it was weighed or not ; that which I handled was not weighed ; do not know about its weight.

5th Ans. to cross-int :

Am not, and never have been, a practicing physician ; am not conversant with the properties nor chemical effects of medicines ; am not accustomed to diagnose diseases, etc.

6th Ans. to cross-int :

Know nothing about the directions, treatments, medicines, etc., and have made no attempt to do so ; know nothing further in answer to this cross-interrogatory.

IRENE McDONALD.

Sworn to and subscribed before me, by the said witness, Irene McDonald, this March 9th, A. D., 1877,

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar Co., Texas.

MRS. EMMA PIERSON.

Mrs. Emma Pierson being duly sworn, as aforesaid, answering says :

1st Ans. to int :

My name is Emma Pierson ; am over 20 years of age ; reside in Paris, Texas.

2d Ans. to int :

Am acquainted with both parties ; have known both for many years.

3d Ans. to int :

Am acquainted with defendant's family ; knew them at the date mentioned ; I knew them for several years before that date.

4th Ans. to int :

Defendant had such a son ; he is dead ; he died on the 31st of July, A. D. 1876, on Monday, a little after 7 o'clock p. m., according to my best recollection.

5th Ans. to int :

Do not know of my own knowledge when he was first taken sick ; I saw him during his last sickness ; was pres-

ent at the time of his death ; first saw him late in the afternoon, preceeding the day of his death ; saw him three times—that is to say, I visited him three times ; saw him many times ; was with him about nine to ten hours altogether.

6th Ans. to int :

Do not know what was the matter with him ; do not know as to fever or chills ; his head was sometimes warm and his body cold ; don't know how he was first taken ; did not hear him complain that I recollect of ; he did not seem to me to have any expression about his face on Sunday evening before his death ; could not tell whether he was rational or irrational ; he would rise up at times and call for things, intelligibly, for cake, etc., and call his mother ; that was on said Sunday evening ; saw both Dr. Fort and Dr. Gibson attending on the sick child.

7th Ans. to int :

Don't know at what stage of the attack he was called in ; did not give any medicine at all, and did not remember enough about the medicines, their kinds, and the directions to testify in this particular ; the first evening I went there, Sunday, they were putting cold water on the child's head ; do not know by whose directions ; do not know when the water was first applied ; do not know how long it was continued ; did not so examine the pulse of the child ; ice also was applied on said Sunday night, and the ice was being applied on the next evening, Monday, when I returned to see the child ; do not know the precise time when the ice was first applied ; the first night, the ice was used in little napkins, or cloths, broken up fine, the second evening it was applied in little rubber sacks, at least two at a time ; when I noticed the napkins and ice on the first night, they were used on the forehead and sides of the head ; do not know the quantities of ice used, nor the size or weight of the sacks ; do not know how long the ice was continuously

applied; it was continuously applied all the time I was there on the second evening; am not positive, but it is my recollection that the ice was taken off just before the child breathed his last breath.

8th Ans. to int :

Did not examine the child's pulse sufficiently to pass an opinion; the child's hands and feet were cold; warm materials, of some kind, were placed at the child's feet, not with a great effect; do not remember about the head of the child under the application of ice, except that the back of his head would feel warm where he would lie on it; can not say it was hot; do not remember the exact appearance of the child; the first night he was more restless, the second night he was in more of a stupor; did not hear the child complain; did not pay particular attention to the child, only helped, and that chiefly consisting in changing the ice about, etc.; administered no medicins.

EMMA PIERSON.

#### CROSS EXAMINATION.

To the cross-interrogatories, she answers :

1st Ans. to cross-interrogatory :

I was not present when he was first taken sick; was present when he died; first saw him on the day before his death, that is, July 30th, A. D. 1876, on Sunday evening, about the approach of dusk; stayed at that time about five minutes; left about five minutes after dusk; I remained away about one hour and a half; came back the second time about an hour and a half after dusk had set in; stayed the second time about five or six hours; left about one o'clock a. m. July 31st, 1876; returned a third time about dark on said Monday; remained until after the said child's death, and went away about 9 or ten o'clock p. m. of that day; these were all the visits I made.

2d Ans. to cross-int :

I gave no opinion as to what was the matter with the child.

3d Ans. to cross-int :

Do not know how long the child had been seriously ill when the physician was first called in; do not know when he first came; was not present when he first came, that I know of.

4th Ans. to cross-int :

I stated nothing as to medicines, except that I did not know anything about them; I made no statement of the weight of the ice used; do not know that it was weighed; I handled the ice some in changing it about on the child's head at times.

5th Ans. to cross-int :

I am not and have never been a practicing physician; am not conversant with the properties, curative and chemical effects of medicine; am not accustomed to diagnose diseases, and am not familiar with the effects produced by diseases upon persons.

6th Ans. to cross-int :

I have not stated anything about the directions, except that I knew nothing of them, and know nothing further in answer to this cross-interrogatory.

EMMA PIERSON.

Sworn to and subscribed before me by said witness, Emma Pierson, this February 22d, A. D. 1877.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar County, Texas.

## MARY M. COILE.

Mrs. Mary M. Coyle being duly sworn as aforesaid, answering, says:

1st Ans. to interrogatory:

My name is Mary M. Coyle; I am over 31 years of age; reside in Blossom Prairie Depot, Lamar county, Texas.

2d Ans. to int:

Am acquainted with the parties; have known them since January or February, A. D. 1876.

3d Ans. to int:

Am acquainted with defendant's family; knew them at that date; knew them since January or February, 1876.

4th Ans. to int:

Defendant had such an infant son; he is dead; my recollection is, he died in July; do not recollect the day of the month; 'twas on Monday evening, in 1876.

5th Ans. to int:

Don't know how long he was sick; I saw him during his last sickness; was present at his death; I first saw him during his last sickness, on Sunday evening about dusk, the day before he died; made four visits to him during his last sickness; was with him during said sickness before his death, some ten or twelve hours.

6th Ans. to int:

Do not know what was the matter with him; do not know whether he had fever or not; don't know whether he had a chill; don't know how he was first taken; did not hear him complain; he looked gastly; he seemed to be perfectly unconscious, perfectly still like a stick of wood, lay there like a log; can not say about his being rational or otherwise; Drs. Fort and Gibson attended him;

Fort was the only physician I saw when I first went there; saw them both in attendance afterwards.

7th Ans. to int :

I can not state at what stage of the attack he was first called in ; know medicine was given to the child, but do not know what kind, nor what quantities they were given in, nor what number of times the medicine was given ; do not know what the effect of the medicine was, but I do know that the child vomited very slightly after some of the medicine was given—whether from the effect of the medicine or not I do not know ; I know nothing of the cold water ; ice was also applied to the child's head, but I do not know when it was first applied ; it was on the child's head when I first visited him on Sunday evening ; the ice was continued to the child's head during all the time I visited him, and I took the ice from its head after its death ; there were two to three sacks of rubber cloth filled with ice beat up tolerably well ; the sacks were about the size of a lady's hand ; the ice was applied on top, on the sides, and at the back of his head ; know that when Dr. Fort painted with iodine the back of the child's head—at one time—he first removed the ice, to paint it ; several sacks were used at a time ; do not know how many pounds the sacks held.

8th Ans. to int :

Did not notice the child's pulse until just before his death ; the pulse then was very low and feeble ; the pulse ceased in one arm some time before the other ; the hands and feet were cold ; we endeavored to warm them by rubbing them, putting mustard and hot irons to them ; we did not succeed in warming them to any extent ; they were cold until he died ; can not say that I examined the child's head, except about two hours before his death, and then it was as cold as the ice ; the child's face was purplish or bluish ; the blood seemed to have settled under the child's

nails; he looked mottled; the child's features appeared cold and rigid; was with the child closely during the time before mentioned, and assisted merely in nursing; can not say whether the doctor's directions were strictly followed or not; Dr. Fort knew of the manner of the use of the of the ice, because he was present when it was used.

M. M. COILE.

CROSS-EXAMINATION.

To cross-interrogatories, she says:

1st Ans. to cross-int:

I was not present when the child was first taken sick; I was present when he died; I first saw him during the child's last sickness, late on Sunday evening, July, 1876, the day before he died; stayed about two hours and a half; left about 8 or 9 o'clock p. m. of that day; stayed until the next morning; about 7 a. m. I came back; stayed about one hour and a half; left the second time about 8:30 a. m. of the same day, Monday; returned about 10 o'clock a. m., and remained until 12 o'clock m.; then left, remaining away until about 2 o'clock of the same day, and remained with him until after his death; these dates are given as precisely as I can remember them.

2d Ans. to cross-int:

I gave no opinion as to what was the matter with the child.

3d Ans. to cross-int:

I do not know how long the child had been ill before the physician was first called in, or how long he had been seriously ill; do not know when the physician was first called in; was not present when he came.

4th Ans. to cross-int:

Have made no statements about medicines, their kinds or quantities used, nor the directions concerning them;

I handled some of the ice ; don't know whether some of it was weighed or not ; know nothing further in answer to this interrogatory.

5th Ans. to cross-int :

Am not, and never have been, a practicing physician ; am not conversant with the properties nor chemical effects of medicines ; am not accustomed to diagnose diseases, etc.

6th Ans. to cross-int :

Have not stated anything in reference to the directions ; know nothing about the directions, treatments, medicines, etc., and have made no attempt to do so ; know nothing further in answer to this cross interrogatory.

M. M. COILE.

[SEAL.] Sworn to and subscribed before me, by the said witness, M. M. Coile, this March 10th, A. D., 1877.

J. P. GRAHAM,

Notary Public,

Lamar Co., Texas.

MISS MOLLIE F. PETERSON.

Miss Mollie F. Peterson being duly sworn, says :

1st Ans. to interrogatory :

I am eighteen years of age ; reside in Paris, Lamar County, Texas.

2d Ans. to int :

Am acquainted with the parties to this suit ; have known plaintiff several years ; have known defendant eighteen years.

3d Ans. to int :

Am acquainted with defendant's family ; have been all

my life; was so acquainted with them at the date mentioned.

4th Ans. to int:

Defendant had such an infant son; he is dead; he died in the evening about 6 or 7 o'clock, on Monday the 31st day of July, A. D., 1876; this is my recollection.

5th Ans. to int:

He was sick from Saturday evening until the following Monday evening, about two days and nights—that is, he had a slight fever on Saturday night; not very sick on Saturday night; was up on Sunday morning for a while; saw him during his last sickness; was present at the time of his death; saw him all the time, (except a few moments at a time); was with him from the first.

6th Ans. to int:

Can not say what was the matter with him; I think he had fever Saturday night, and some Sunday morning; he had very little, however; the doctor, J. M. Fort, stated when he called on Sunday about 2 o'clock p. m., that he had seen the same child have a great deal higher fever than he had then—that his fever was not very high; he had the appearance of being very much chilled during the last night and day of his sickness; as to complaining, he would say, "I am so sick," but did not tell where he was hurting; that was at the times he would get out from under the influence of chloral; his appearance was very natural up to the time the cold water, by the bucketful, was poured upon his head; after the water was applied his appearance changed and he became blue and purple, the blood coagulated under his nails, and made purplish spots about his face, and he seemed chilly; he was rational and irrational alternately; he was rational when he was not under the influence of medicine, and recognized me and his father and mother; he was, however, under the influence of medi-

cine of some stupefying sort or other, nearly all of Monday, the day of his death; Dr. J. M. Fort was his chief physician, and Dr. Gibson also attended him.

7th Ans. to int :

He (Dr. Fort) was first called in about 2 o'clock p. m., on Sunday, the day before his death; medicines were given the child; I heard Dr. Fort say on Sunday that there were two kinds of medicine to be given then, at one dose; do not recollect the names; there were medicines given afterwards; I only know the names of two—they were quinine and chloral; I know they were, because I heard Dr. Fort say they were such, and saw the labelled name on the bottle of chloral when Dr. Fort poured out a dose to give the child; do not recollect how frequently the particular medicines were given, and do not recollect all the doctor's directions; can not say about the particular effects of the medicines given; water was applied to the head of the child on said Sunday afternoon, until they procured ice; the bed was completely saturated with water; the bed was wet all the time; the water was applied about half after 2 o'clock on said Sunday evening; did not examine the child's pulse during the application of the cold water; ice was applied first between 4 and 5 o'clock on said Sunday evening; the child was cold, his lips were purple, and the blood had purpled under his nails when the ice was first applied; the ice was continuously applied from that time until his death—a whole day and night; three or four bags of ice were used at a time; they were placed at the sides, on the top and at the back of his head, and were removed when exhausted; the sacks were about the size of my hand; can not tell what quantity they held; they were filled with ice; some of the sacks were cloth; they were the largest; some of them were rubber sacks; don't know how many pounds they held; the ice first used was in tolerably large lumps; it was afterwards broken

up more, and on Monday, about 10 or 11 o'clock, the day of the child's death, Dr. Fort took me out and showed me how to beat it up very fine; afterwards it was beat up fine and so used; the ice was continued on the child's head until after it had breathed its last.

8th Ans. to int :

On Monday morning I first examined his pulse particularly; that was the day of his death; his pulse was very feeble; I examined it frequently after, and it continued feeble and slow, except when we would rub his hand with mustard when the pulse would start up a little, and then go back to its slow, feeble beat; did not examine his pulse before the application of the ice, and can not tell what peculiar effect the ice had to his pulse, unless its general feebleness was caused by the ice; I examined the child's head during the application of the ice, and it was cold, the face, hands and lips appeared cold and chilly; he was, after the ice was commenced, most of the time in a stupor, and I did not notice him complain then; I paid particular attention as much as I could; I helped to nurse and rubbed his hands and feet with mustard; sat up part of the time Sunday night; did not give him any medicine; cannot state whether the doctor's directions were strictly followed in giving medicines; I know that the ice was applied accord'ing to his directions, because I prepared the ice in a great part, myself, and saw it used according to his directions; the doctor, J. M. Fort, knew of the manner of the use of the ice, and the quantity used—because he was present much of the time and saw its application, and I knew his directions about it; we rubbed his hands and feet with mustard, and placed hot irons to his feet, with very little effect.

MOLLIE PETERSON.

## CROSS-EXAMINATION.

To the cross-interrogatories witness, answers as follows :

1st Answer to interrogatory:

I was present when he was first taken sick ; I was present when he died ; was with him, as before stated, during his whole illness, and only left him for a few moments at a time, except on Sunday night, July 30th, A. D., 1876, I retired to rest for a few hours ; did not visit him as a visitor ; he was at my home, and I was with him all the time.

2d Ans. to cross-int :

I did not attempt to state what was the matter with the child.

3d Ans. to cross-int :

The child had not been seriously ill at all, when the doctor was first called in ; that is my opinion as asked for ; he had been slightly ill, however, about half a day, and was slightly ill, as before stated, on Saturday evening before, though he got up to play on Sunday morning ; the physician first arrived, as near as I remember, about 2 o'clock p. m., on Sunday, July 30th, A. D. 1876, the day before the death of the child ; my means of knowing is, I was present when he was first sent for and when he came.

4th Ans. to cross-int :

My means of information in regard to what I have said about the medicines used, were the statements made by Dr. Fort, himself, and what I saw of the names on the bottles when the medicines were used ; can not state about the medicines, their quantities, kinds and uses, nor combinations—not knowing them ; I handled much of the ice ; it was not weighed to be used on the child's head ; I know not whether it was ever weighed ; have made no statement of its weight ; know nothing further to this interrogatory.

5th Ans. to cross-int :

Am not, and have never been, a practicing physician am not conversant with the properties of medicines and their chemical and curative effects ; am not accustomed to diagnose diseases, and am not familiar with their effects upon persons, etc.

6th Ans. to cross-int :

Have not stated the medicines, and their kinds and use, except what I stated about quinine and chloral, which were so named and given by the doctor, J. M. Fort ; know nothing further about this part of the interrogatory ; as to the water, the only directions I heard, were to bring it, and he (Dr. Fort), poured it on himself ; as to the ice, they were to replenish the bags whenever they needed it, and not to let the ice be exhausted on the child's head ; he used it in lumps at first, and then afterwards, showed me how to beat it up very fine ; these directions were strictly followed ; I knew what the doctor's directions were in this part of his treatment—because I heard him give them ; this is all I know in response to this cross-interrogatory.

MOLLIE PETERSON.

Sworn and subscribed before me, the said witness, Mollie Peterson, this March 12th, A. D. 1877.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar County, Texas.

SUSAN C. PETERSON.

Mrs. Susan C. Peterson being duly sworn, as aforesaid, answering says :

1st Ans. to int :

My name is Susan C. Peterson ; am 37 years of age ; reside in Paris, Texas.

2d Ans. to int :

Am acquainted with both parties ; have known plaintiff about nine years ; have known defendant about twenty years.

3d Ans. to int :

Am acquainted with defendant's family ; knew them at the date mentioned.

4th Ans. to int :

Defendant had such a son ; he is dead ; he died on the 31st of July, A. D. 1876, on Monday, about 7 or 8 o'clock p. m.

5th Ans. to int :

He was sick from Saturday night until the following Monday evening above mentioned—that is, he was slightly sick on Saturday night, and got up early on Sunday morning and wanted to play ; saw him during his last sickness ; was present at the time of his death ; saw him all the time of his last sickness ; he was at my home ; he was my child ; I spent all my time with him, except the few moments I snatched for going out of his room to attend to some duty for him.

6th Ans. to int :

Can not give an opinion as to what was the matter with him, but will give his symptoms and the facts. On Saturday evening we discovered that he was sick ; his bowels were acting a little too freely, and he had some fever next morning, but very slight ; his bowels always had a tendency to diarrhoea, and we always felt uneasy when he manifested its symptoms ; the bowels being too free, and a little fever, was all we could discover to be ailing him on Saturday night and Sunday morning spoken of ; he did not have a chill—that is, what is commonly called a chill, and his fever was very slight ; that was on Saturday night and Sunday morning ; he did not complain when he was first

taken sick, only fretful; his appearance during Saturday night and Sunday morning was ordinary; he was very natural; about 2:30 p. m. on Sunday he woke up from a nap with a spasm; he had four spasms; they were very short but very hard; when he had the first spasm he was very pale; he was rational up to the time he went to sleep, from which he awoke with a spasm; he had frequent intervals of consciousness and rationality after he had the spasms, even on Monday, the day of his death—in fact, he was rational whenever he would rouse up from the stupefying medicines which were given him; Dr. J. M. Fort was the physician in attendance on the child; he himself procured Dr. Gibson's attendance; the latter did not arrive until after dusk on Sunday evening; that—at least, was the first time I noticed him present.

7th Ans. to int:

The doctor—Fort—was first called to attend the child in his last sickness about 2 p. m. on Sunday evening, that was the day before his death, about half an hour or a little more before the child had his first spasm; we gave the child broken doses of calomel and Dover powders on Saturday night at dark; that was given with a view to arrest the diarrhœa tendency; that medicine had been prepared before by Dr. Fort with a view to the diarrhœa tendency; Dr. Fort had prepared it for me to take on a trip a few weeks before the child was taken sick; he had a slight attack of the diarrhœa a short time before, and I had given him the powders with success; the powders were given in the present case according to said doctor's general directions. On Sunday at about 2 p. m., the child seemed to have a little more fever, but lay down to doze on his pallet, yet Mr. Peterson (deft.) thought we had better send for Dr. Fort, who lived just across the street from us, and see if the child really needed any more medicine; we sent for said doctor; he came; he examined him, felt of his

pulse, looked at his tongue, asked about his bowels, and I told him they had acted during the night, and he said that he thought all the child needed was something to work off the medicine we had already given; that he "had seen Charlie have a great deal higher fever than he then had;" he took Mr. Peterson back with him, and Mr. Peterson brought back from Dr. Fort a medicine which we immediately gave the child; it was calomel and rhubarb, according to my recollection; do not know how much of either was in the dose, having no way of ascertaining; I know that it was a large dose of medicine, for I gave it myself; before he left with Mr. Peterson he instructed me, personally, how to give the medicine he should send by defendant, which instruction I carried out exactly. The child went to sleep after taking the medicine, but in about half an hour after, waked up with a spasm, and had four spasms in succession, quite an interval between the first and second; there were only a few minutes, however, between the three last; during the first spasm we sent for Dr. Fort again; he came at once, but the first spasm was off by the time he arrived; he remarked then that I need not be alarmed, the child will be over it presently; the doctor then commenced pouring cold water on the child's head, and gave him an emetic after he had poured cold water on his head for a while; he had buckets of water in the room; he poured several bucketfuls—at least, two or three—on afterwards; he also used cloths wet with ice water, on the child's head during the same evening; the effect of the emetic was to make the child spit up two mouthfuls of some frothy substance; the child seemed to have some difficulty then in swallowing; as well as I remember, the doctor mixed the emetic three times for me to give, but I don't think the child got a great deal of it—it was so difficult for him to swallow; the doctor, J. M. Fort, also injected quinine into to the child's arm that night, (Sunday) and gave him a solution of chloral; one

dose of chloral was given by the doctor at about dusk, and afterwards at 2 o'clock a. m., Monday morning; I gave the child another dose of chloral, and another about day-break Monday morning, by the doctor's (J. M. Fort) directions; the dose was a teaspoonful; I asked the doctor if I must dilute it any way, and he replied it was already prepared, and to give him a teaspoonful as it was; I remember no other medicines; I could detect no effect from the quinine; the effect of the chloral was to keep him very quiet; he lay in a stupor most of the time after taking it; the cold water was first applied on Monday evening, as soon as the doctor arrived the second time, as before stated; the cold water was applied at intervals, until near sunset of that day; it was in large quantities; the child was perfectly wet, and also his clothes; did not examine the child's pulse during the application of the cold water; the child's lips were purple, his nails also, his limbs were pided, and his face was livid; the child was cold during the application of the water, and afterwards all the time—generally his feet and hands; we sometimes succeeded in warming them a little by rubbing with mustard, using hot irons, etc., but not long; ice was also applied; it was first applied late on said Sunday evening, after he had gotten through his last spasm; after the last spasm, and before the ice was applied, I was afraid the child was going to have croup, but the doctor said no, that was only produced by the cold water; the child was then very cold; the ice was continuously applied from that time, Sunday evening, until he died, on Monday evening following; during the first night of its use the ice was used in cloths, and was placed at the back, and frequently on the sides, and the cloths lapped around his head; the next morning, Monday, rubber sacks were also used; part of the time two bags were used, and part of the time four bags were used; during Sunday night the ice was used in lumps, not very large; Monday the ice was beat up tolerably fine; Mollie Peterson attended most-

ly to preparing the ice; can not tell how much the sacks would hold; they were about as large—fully as large as a lady's hand—a good deal larger than a small hand, and they were filled and kept filled with ice, after its commencement; the application of the ice to the child's head was not discontinued until after the child's death.

8th Ans. to int:

I examined the child's pulse during the application of the ice, and could scarcely find it—so low and feeble was it; the hands and feet were cold; we tried to warm them by rubbing his hands with mustard and wrapping them up in warm flannels, and putting hot irons to his feet; by thus working with them we could get the child's extremities a little warm sometimes, but the warmth would not last long; I examined its head during the application of the ice; his head was cool, his face and ears were cold; the face, ears, lips and features were generally cold; he was not feverish; he did call for water but three times during the whole of his sickness—that I remember of; the doctor's directions were strictly followed; the ice was applied by the doctor's directions; he applied some of it himself; he knew of the manner of its use, and the quantity used; for a while on Monday, 3 o'clock, the child shivered, and his teeth chattered with cold; his lips and cheeks were blue.

SUSAN C. PETERSON.

CROSS-EXAMINATION.

To the cross-interrogatories, the witness, Mrs. Susan C. Peterson, answers:

1st Ans. to cross-interrogatory:

I was present when he was first taken sick; was present when he died; was with him from the first to the last of his sickness; did not stay away from him but a few min-

utes at a time ; can not now recall the number of times he was out of my sight, nor the precise time of my absence from him, nor the precise time of my return to his bedside ; was with, I may say, all the time, except a few minutes.

2d Ans. to cross-int :

Did not state what was the matter with him, but what I did state, in answer to interrogatory 6th, was the result of my personal observation, and what I heard Dr. Fort say, and also my own judgment, or opinion.

3d Ans. to cross-int :

It is my judgment that the child was not seriously ill until the physician, Dr. Fort, was called the second time, when he had the first spasm, about half after 2 o'clock on Sunday, the 30th of July, A. D., 1876, and that he had been seriously ill about three to five minutes before the doctor arrived, the said second time ; the child had not been seriously ill at all when the physician was first called in ; the reason we sent for the physician at first was, because we feared he would have a spell of fever or something, and we desired to know whether he would require any more additional medicine than that already furnished by Dr. Fort ; the physician first arrived about 2 o'clock, p. m., on said 30th of July, A. D., 1876 ; my means of knowing, is this : our regular dinner hour at that time was 2 o'clock p. m., and we were just on the eve of eating dinner when the doctor came ; I was present when he first came.

4th Ans. to cross-int :

I acquired my information on these points, from the statements and instructions of the doctor, (Fort) and from my own personal observations ; all the information I received from anyone, was from Dr. Fort ; at first, on Saturday evening, aforesaid, we gave the child broken doses of calomel and Dover powders ; do not know the exact pro-

portion of one to the other—about as much as would lay on the point of a small pen knife for a dose; we gave him five powders of these medicines; we gave them to him on an average of two to three hours apart; these were given on account of the diarrhœa tendency; the next medicine was the calomel and rhubarb, aforesaid; do not know the proportions; it was a very large dose of medicine; by putting in just enough of molasses syrup to mix it well, it filled a teaspoon; that was given by me under Dr. Fort's directions, as before stated in answer to a direct interrogatory; it was given a few minutes after 2 o'clock p. m., on said Sunday; the next was the emetic; do not positively know what it was; it appeared to be ipecac, and the doctor stated that it was for the purpose of an emetic; while the doctor was present I attempted, for a long time, to give this drug, and succeeded in getting the child to swallow a little, with great difficulty—as he could not then swallow easily; the quantity actually given him was not much—he could not swallow much; the doctor prepared it for me in a glass three times to give the child, and instructed me to continue to get him to swallow as much as I could; that was during the said Sunday evening between the spasms, and after the cold water had been freely applied; the next medicine given was the chloral—a solution of the same, and a teaspoonful at a dose; do not know what its strength was; Dr. Fort told me it was already prepared, and not to dilute it; the first dose was given about dusk on said Sunday night, the second at 2 o'clock a. m., the next morning, Monday; do not know how much was given on Monday; the doctor gave some of it on Monday himself; the quinine was used in the early part of Sunday night, about 9 o'clock, by injecting it into the arm; do not know the amount so used; that is all I remember about the medicines used, and as precise as I can be; I handled some of the ice, not all of it; do not know whether it was weighed or not; it was not weighed to apply to the child's head.

5th Ans. to cross int :

I am not now, and have never been a practicing physician; am not conversant with the properties, and curative and chemical effects of medicines; am not accustomed to diagnose diseases, and am not familiar with the effects produced by diseases upon persons, but can tell when I see or feel a little fever, or some childish ailment, as any mother can.

6th Ans. to cross-int :

The doctor's (Fort's) directions about the first medicines, calomel and Dover powders, were general as follows: To give one powder about every two hours, when the diarrhoea was violent, otherwise not so frequently, and to be governed by the degree of violence the disease assumed; in regard to the calomel and rhubarb, his only direction was to mix it in syrup and give it forthwith; as to the emetic his instructions were to give it as much as I could get the child to swallow—the doctor mixing it; the quinine he gave by injection in the arm, himself; the chloral, he himself gave the first dose, and left instructions for another dose to be given at 2 or 3 o'clock in the night, and the next morning at daybreak; do not remember how many doses of the chloral were given on Monday after the first three; but I know the child was kept under its influence all day Monday; this is as fully and particularly as I can answer this part of this cross-interrogatory; I know what the doctor's directions were, because I heard them given—that is, those I have specified; there were no special directions given for each medicine or item of treatment that I heard, except what I have already detailed in answer to this interrogatory.

I have just stated to what special medicine or treatment each direction belonged, except as to the water and ice; the special directions about these were to bring plenty of water in the room, and keep the child's head wet with it;

and as to the ice, to keep plenty on hand, and to keep the sacks or bags apphed to the child's head well replenished; some of the doctor's directions were given to Mollie Peterson; did not hear those; some of the instructions the doctor gave to me; he showed me how to beat it up (the ice) himself, and then how to apply it, by applying it to the child's head himself—on top and around the child's head; I received the directions from Dr. J. M. Fort; this is all I remember in response to this cross-interrogatory.

SUSAN C. PETERSON.

Sworn to and subscribed before me, by the  
said witness, Susan C. Peterson, this  
[SEAL.] March 31st, A. D., 1877.

J. P. GRAHAM,

Notary Public,

Lamar Co., Texas.

STATE OF TEXAS, }  
LAMAR COUNTY. }

I, J. P. Graham, a notary public within and for said Lamar county, do hereby certify that the facts by me stated as aforesaid, are true, and that the foregoing answers to the interrogatories and cross-interrogatories accompanying said commission, were by the said witnesses: Mrs. M. Coile, Mrs. Mary A. Birmingham, Mrs. Emma Pierson, Mrs. Margaret Walker, Mrs. Susan C. Peterson, Miss Mollie F. Peterson, Miss Mary Holcomb, Miss Belle Holcomb, Captain John O. Ewing, Mrs. Irene McDonald, Pauline Ford and Gertrude Grant, sworn to and subscribed before me, every one of said witnesses being sworn to and subscribing his or her answers to the said interrogatories and cross-interrogatories, respectively as appears from the depositions of each in the foregoing pages. And further, that I wrote

the answers, in person, in the presence of each witness subscribing thereto.

To certify all of which I hereby set my hand, officially, and impress my notarial seal, at office in said Lamar county, this thirty-first day of March, A. D. 1877.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar County, Texas.

Also was read certain depositions on the part of defendant, as is hereinafter shown at length, to wit:

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

Suit pending in the district court of Lamar county.

J. M. FORT, Plaintiff,

vs.

RICHARD PETERSON, Defendant. }

To JAMES M. FORT, Plaintiff, in the above-named suit:

You are hereby notified that five days after service hereof, application will be made to the clerk of the district court of said county for a commission to take the answers of Drs. J. R. Jones, W. E. Daily, Geo. H. Long and Leo Harrison, resident citizens of Lamar county, to the following interrogatories which, when taken, are to be read in behalf of defendant on the trial of the above-styled case.

R. PETERSON, Defendant.

## DIRECT INTERROGATORIES.

J. M. FORT  
 vs.  
 R. PETERSON. }

Suit pending in district court, Lamar county Texas.

Interrogatories to be propounded to J. R. Jones, W. E. Daily, Geo. H. Long and Leo Harrison, witnesses for defendant, who reside in Lamar county, Texas:

1st interrogatory:

You will please state your name, your age and place of residence, also your profession; and if a physician, state whether a graduate of a medical school, and what school; also state how long you have been a practicing physician.

2d interrogatory.

You will please examine carefully the report of the history, treatment and symptoms of the case of Charles D. Peterson, attached to these interrogatories, marked exhibit A, and then give your opinion on the following points: What was the matter with the child when Dr. Fort was first called to see him? Would he or not most likely have recovered if the doctor had not been called? Was the large dose of calomel a proper and judicious remedy? What was most likely the cause of the spasms? Was or not the treatment of Dr. Fort during and after the spasms, proper and judicious? Did he or not, in your judgment, use entirely too much cold water and ice? Were not said remedies, if proper at all, continued too long? In your judgment were they or not injurious to the child? Is it or not probable that the water and ice were instruments in causing death? Was the chloral a proper and judicious remedy? If proper, at all, was it or not used in quantities too great and too long continued? Was or not the injection of quinine into his veins correct treatment? Were the powders of calomel, Dover powders, quinine or bis-

muth a proper and judicious remedy? Considering all the symptoms of the case and all the treatment used, in your opinion was the treatment beneficial or injurious?

3d interrogatory:

You will please state fully what, in your opinion (based upon said statement), was the cause of the death of Charles D. Peterson.

4th interrogatory:

State whether or not, in your opinion, either the ice or the chloral, or the two together, might have caused the child's death.

5th interrogatory:

You will please state whether the treatment of the case, taken altogether, was not sufficient to cause the death of a five-year-old child in almost any state of case that may have existed, as indicated by the symptoms.

6th interrogatory:

Was, or was not, said treatment sufficient to cause the death of a well child of his age and physical strength?

7th interrogatory:

If you have any other opinion about the case, either as to the disease or treatment, you will please state it in full.

DOHONEY & DOHONEY,  
Attorneys for Defendant.

## EXHIBIT A.

### STATEMENT.

Charles D. Peterson, son of Richard Peterson, of Paris, Texas, died July 31st, 1876, about 8 o'clock p. m. He was a robust healthy child, with large chest and head, and good mind, and was four years two months old when he died. Was of nervo-sanguine temperament.

On Saturday, July 29th, 1876, in the evening, his mother discovered that he was not well; had slight fever and a tendency to diarrhœa. His mother gave him during the evening and night, five powders, a mixture of calomel and Dover powders—at intervals of two to three hours—under general directions of the family physician, the medicine having been prepared as a remedy for diarrhœa.

This medicine operated by a free discharge from the bowels during the night, and the child appeared better Sunday morning, and played with his toys during the morning, but about 12 o'clock a. m. became a little fretful, and had slight fever again, but went to sleep. While asleep, about 2 o'clock, the family physician, Dr. Fort, was called, examined the child, endorsed what had been done, and prepared for it a large dose of calomel and rhubarb, which was given to it, and the child again went to sleep. In about thirty minutes he awoke with a spasm, which was short but severe, and was followed by three others of similar character. Dr. Fort lived just across the street from Mr. Peterson, and was recalled immediately on the attack of the first spasm, about 2 o'clock Sunday evening, and remained with and treated the child till his death, Monday evening about 8 o'clock.

#### TREATMENT.

1st. Poured several bucketfuls of cold water on the child's head.

2d. Administered ipecac as an emetic—got but little down.

3d. Administered warm soap suds as an enema.

4th. A warm foot bath.

5th. Cold application to the head; first cloths wet in cold water; continued till about night, then crushed ice in

cloths or napkins, applied on sides and top of head all night, then indiarubber sacks of crushed ice three or four in number, each holding about one half pound, applied on and around the head continuously till death.

6th. Injection of sulphate of quinine into veins of arms twice during sickness.

7th. Powders composed of calomel, 3 grs.: Dover powders, 2 grs.; sulphate quinine, 6 grs.; and sub. bismuth, 3 grs., in four portions and administered every three hours, commencing early Sunday night, and same medicine continued on Monday all day, with an increase of calomel one grain.

8th. Chloral administered at intervals all the time till death

9th. On Monday morning back of the head shaved and iodine applied, and after the iodine a mustard plaster on back of head and spine.

10th. Warm applications to the feet and rubbing of feet and hands at intervals during the sickness.

#### EFFECTS AND SYMPTOMS.

The feet and hands were cold all the time, except when warmed up a little by rubbing and hot applications.

The enema acted on the bowels, but the emetic failed to act, except the child threw up a few mouthfuls of froth.

The head was cool or cold all the time after the application of the ice.

The child appeared to have little or no fever after the convulsions ceased, the pulse was slow and feeble, face pale and livid, ears and nose cold, lips purple, blood coagulated under the nails, general depression, stupid, and on Monday frequent chattering of the teeth, and appearance of cold; when aroused from the stupor would seem to be rational,

and knew its mother and sister, and struggled to get up and change its position. The child laid all the time on its back, and the melting ice wet its clothes and the bed under it; the ice remained around its head until after death.

J. M. FORT

vs.

R. PETERSON. }

Cross-interrogatories to Drs. J. R. Jones, W. E. Daily, Geo. E. Long and Leo Harrison, defendant's witnesses :

1st cross-interrogatory :

If, in answer to direct interrogatory first, you state that you are a graduate and practicing physician, and if in answer to direct interrogatory second, you state that you have examined the report of the history, treatment and symptoms of the case of Chas. D. Peterson as set forth in exhibit A, then please state, as a medical man, if you can form any satisfactory opinion as to the true nature and character of the disease of which Chas. D. Peterson died, from said report. If so, what disease?

2d cross interrogatory :

Please state if, as a medical man, you can from said exhibit A., form an intelligent and accurate opinion as to the appropriateness or inappropriateness of the treatment pursued by the attending physician in the case.

3d cross-interrogatory :

If, as stated in said report, the child's bowels had been well moved by an enema and the stomach cleared of its contents by an emetic, and if no indigested food or other irritating substance was discharged from the stomach or bowels, and if the child was too old to be teething, and if it had no exanthematous disease, and if the convulsions continued in spite of treatment, to what would you attribute, or at least suspect, the convulsions to be due to?

## 4th cross-interrogatory :

If, in answer to direct interrogatory 2d, you state that the hydrate of chloral was improperly used, or given in excessive quantity, please state in what doses it was given, at what intervals, and where you obtain your information.

## 5th cross-interrogatory :

If, in answer to direct interrogatory 2d, you state that the cold water and ice, in your opinion, were used in excess, then please state if your opinion is not based alone upon the report of the case as made in exhibit A. If not, then upon what information?

## 6th cross-interrogatory :

If, in answer to direct interrogatory 5th, you state that the treatment of this case, as detailed in exhibit A, was injudicious and improper, no matter from what disease the child was suffering, then please state what plan of treatment is laid down by standard medical authorities to be pursued in the treatment of acute cerebral diseases, such as active congestion, acute meningitis, cerebritis, etc., etc.; whether productive of convulsions or not. State fully, and give your authorities.

## 7th cross-interrogatory :

If, in answer to direct interrogatory 6th, you say that the treatment in the case was sufficient to cause the death of a well child, please state how and where you obtain your information, and if you ever saw a well child treated as was the case in question.

## 8th cross-interrogatory :

Please state, if you can from exhibit A arrive at an exclusive and satisfactory opinion as to the character of the disease, its origin or cause, and its course. Or if you can form such opinion as to said amount, time and mode of administering the medicines, or the time, mode or inter-

vals of the treatment pursued by the two attending physicians throughout the case.

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,

Attorneys for Plaintiff.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

I, W. S. Williams, clerk of the district court of Lamar county, Texas, do hereby certify that the above and foregoing pages contain a true and correct copy of direct and cross-interrogatories propounded to defendant's witnesses in the above-entitled cause, as the same are now on file in my office.

Given under my hand and the seal of said court, at office in Paris, Texas, April 12th, A. D. 1878.

S. W. WILLIAMS;

Clerk, District Court,

Lamar County, Texas.

By S. F. ALSTON,

Deputy Clerk.

Commission attached.

J. M. FORT

vs.

R. PETERSON. }

By virtue of the foregoing and attached commission, issued in the above-entitled cause, out of the district court of Lamar county, on the twelfth day of April A. D. 1878, I have caused the witnesses in said commission named, to wit: Dr. J. R. Jones, W. E. Dailey, Leo Harrison and George E. Long, to appear before me in the city of Paris, county of Lamar, state of Texas, who being first sworn

by me, in answer to the foregoing and attached interrogatories and cross-interrogatories propounded to them, deposed as follows :

DR. J. R. JONES.

To the first interrogatory the witness, Dr. J. R. Jones, answering says :

1st Ans. to interrogatory :

My name is James R. Jones; am 63 years of age; reside in Paris, Lamar county, Texas; am a practicing physician in same place; am a graduate of the Medical University of Pennsylvania; graduated in 1837; have been practicing about 41 years.

2d Ans. to int :

Have carefully examined the exhibit mentioned; my answers are based upon the statements made in said exhibit; everything in the treatment of the case depends upon the diagnosis, and all physicians find it difficult, even at the bedside, to determine the precise nature of the disease, particularly with children. I think the case was one of intermitting fever, of a grave character, accompanied with more or less enteretis or gastro-enteretis; can not answer the second division of this question; he evidently needed the assistance of a physician; think the doses mentioned were not a judicious remedy; think the spasms were caused principally by reflex action from enteric irritation, and that may have been increased by the large dose of rhubarb and calomel; think the treatment mentioned was not proper and judicious; think he did use too much cold water and ice; think the ice was used to great excess; the water and ice, as used, were certainly injurious; chloral is very highly recommended as a means in controlling convulsions, but, like many other powerful remedies, especially with children, requires to be used with great caution; not knowing the quantity of chloral administered at a

dose, I can not say whether or not it was injurious, or if injurious at all, to what extent; think, however, the protracted use of it in a case like this of doubtful propriety; am not sufficiently informed, from the given diagnosis, to venture an opinion as to whether the use of the quinine was beneficial; see no objection, however, to its use hypodermically—rather think it was indicated; omitting the quinine from the doses mentioned in the question, they were probably right and proper; the treatment, under all the symptoms, was, I think, injurious.

3d Ans. to int :

It is possible he would have died under the most skillful treatment; do not think he could have recovered under the treatment he received, as stated in said exhibit; can make no other answer to this question.

4th Ans. to int :

The extreme use of either, or of both, might have produced death.

5th Ans. to int :

According to the statement made of the treatment, condition and symptoms of the child, I should answer in the affirmative.

6th Ans. to int :

From the same standpoint I answer, yes.

7th Ans. to int :

Have answered this question already.

JAS. R. JONES, M.D.

CROSS-EXAMINATION.

To the cross-interrogatories, the said witness answering says :

1st Ans. to interrogatory :

It is not as satisfactory as an examination at the bed-

side might have been, but is as satisfactory as a report of the kind might, perhaps, be made, and is sufficient to base an opinion on—if it be correct; the disease was intermitting fever of a grave type, complicated with enteritis, and probably with gastric irritation.

2d Ans. to cross-int :

I can form an intelligent, but perhaps not an entirely accurate opinion on the subject mentioned, but it is sometimes almost impossible to form an accurate opinion at the bedside of the patient—more particularly in the case of a child.

3d Ans. to cross-int :

In such a case I should still suspect that the source of trouble was in the bowels, not to be reached by the enema acting upon the lower bowel only, nor by the emetic, which acted only partially in emptying the stomach—the source of the trouble being in part, probably, between the stomach and the lower bowel; the emetic might aggravate the condition of the stomach in the case under consideration.

4th Ans. to cross-int :

I made no such answer.

5th Ans. to cross-int :

My opinion is, of course, based upon the statement in exhibit A.

6th Ans. to cross-int :

Did not state that the treatment was wholly improper in any disease whatever; do not think, from the statement, that the child was suffering from either of the diseases mentioned in this cross-interrogatory; the mode of treatment in numerous authorities, such as West on Diseases of Children, Hammond, and Wood, and other standard authors.

7th Ans. to cross-int :

I obtain my information from exhibit A, before mentioned, and from my reading and observation ; never saw a well child treated as suggested.

8th Ans. to cross-int :

I can not.

JAS. R. JONES, M.D.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

I, J. P. Graham, a notary public in and for said Lamar county, hereby certify that the foregoing answers of Dr. J. R. Jones to the interrogatories and cross-interrogatories aforesaid, having been reduced to writing by me, at the date hereof and the place aforesaid, were then and there sworn to and subscribed before me by the said witness, Dr. J. R. Jones.

In testimony whereof I have hereto set my hand officially, and impressed my seal of office, at office in said county, this tenth September, A. D., 1878.

[SEAL.]

J. P. GRAHAM,  
Notary Public,  
Lamar Co., Texas.

DR. W. E. DAILY.

The witness, W. E. Daily, M. D., duly sworn, answering says:

1st Answer to interrogatory:

My name is W. E. Daily ; am 40 years of age ; reside in Paris, Texas ; am a practicing physician ; graduated at the university of Louisiana, New Orleans ; have been practicing medicine 17 years.

2d Ans. to int :

Exhibit A giving history, symptoms and treatment of Chas. D. Peterson has been carefully examined by me; from the history given, I am certain the child had congestion of the brain; such an impression having been made upon the nerve centres by malarial poison as to produce what we understand as congestion or pernicious intermittent fever; cannot say that the child would have recovered if Dr. Fort had not been called, but do say he might have lived under judicious and proper treatment; the child having taken five powders of calomel and Dover powders at intervals of two or three hours during the evening and night and operating well, I do not consider the large dose of calomel and rhubarb, under the circumstances, at all admissible, but on the contrary, highly injudicious and improper; congestion of the brain was the direct cause of the spasm; I do not regard the treatment used by Dr. Fort as judicious and proper; ice and cold water were used in excess; I regard that the medicines were used entirely too long; evidently they were injurious to the child; I think the ice bore a conspicuous part in causing the child's death, though it might have died without it; see no objection to giving chloral in such cases; certainly the injection of quinine into the veins of the child was not correct treatment; the case being one of pernicious intermittent fever, the proper injection, hypodermically of quinine was correct treatment, if it could not be taken by stomach or bowels; am unable to see what good could result from such a combination of medicines in such a case; taking in consideration the character of the disease and character of treatment, as shown in exhibit A, I regard it hastened the child's death.

3d Ans. to int :

In my opinion, from the statement given in exhibit A, the immediate cause of death was the reckless and injudicious administration of medicines, together with the excessive and too long continued use of ice.

4th Ans. to int :

The ice alone, was sufficient to cause the death of the child ; as to the chloral, the amount administered is not given.

5th Ans. to int :

The ice alone, was sufficient to kill a five-year-old child in any state of case that might have existed.

6th Ans. to int :

Same treatment would have certainly killed a well child of the same age and strength.

7th Ans. to int :

Answers to other interrogatories cover the ground, so that no other opinion need be expressed.

W. E. DAILEY.

CROSS EXAMINATION.

To the cross-interrogatories, the said witness answering says :

1st Ans. to cross-interrogatory :

I have found no difficulty in forming a satisfactory opinion as to the true nature and character of the disease of which Chas. D. Peterson died, as set forth in exhibit A ; the child had congestion or pernicious intermittent fever.

2d Ans. to cross-int :

From the intelligent history given in exhibit A, I find no difficulty in forming an opinion as to the inappropriateness of the treatment pursued by the attending physician.

3d Ans. to cross-int :

I consider the convulsions due to the intensity of the malarial poison acting upon the brain.

4th Ans. to cross-int :

I made no such statement as to the chloral.

5th Ans. to cross-int :

My opinion is based upon exhibit A.

6th Ans. to cross-int :

Such remedies as cause prompt and active derivation from the brain—such as hot stimulating baths, cold to the head, judiciously used—bromide of potash, and such other medicines as cause contraction of the cerebral vessels, evacuents, anodynes to quiet restlessness, and such remedies as allay febrile excitement, is the treatment given by such authors as Roberts, Hantsham, Smith, Meigs & Pepper and Flint in cerebral diseases, such as active congestion, acute meningitis, cerebritis, etc., etc.

7th Ans. to cross-int :

From common sense and the well known effects of ice ; I never saw a well child treated in such a way.

8th Ans. to cross-int :

I can arrive at an exclusive and satisfactory opinion of the disease, its origin, its cause and its course, from exhibit A ; the treatment given in exhibit A, as pursued by the attending physician, is to my mind clear, except in a few instances—the quantity and the intervals between the doses is not given.

W. E. DAILEY.

STATE OF TEXAS, }  
LAMAR COUNTY. }

I, J. P. Graham, a notary public within and for said Lamar county, do hereby certify that the foregoing answers of the said witness, W. E. Daily, M.D., to the interrogatories and cross-interrogatories, aforesaid, were by me reduced to writing at the date hereof and place aforesaid,

and were then and there by said witness, W. E. Daily, M. D., sworn to and subscribed before me.

In testimony whereof, I hereto set my hand officially, and impress my seal of office, at office in said county, this September 10th, A. D. 1878.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar Co., Texas.

DR. LEO HARRISON.

The witness, Leo Harrison, M.D., being duly sworn, answering says:

1st Answer to interrogatory:

My name is Leo Harrison; reside in Paris, Lamar county, Texas; am a practicing physician; graduate of the medical department of the University of Louisville; have been in the practice of medicine since June 1877.

2d Ans. to int:

After a careful examination of the history, treatment and symptoms of the case of Charles D. Peterson, as set forth in exhibit A, have no hesitancy in saying that when Dr. Fort was first called to see the child, it was in the initial stage of a congestive chill; can't say that the child would most likely have recovered had not Dr. Fort been called in; in my opinion he would have died without treatment, after the bowels had been freely acted upon by the powders of calomel and Dover powder administered by its mother before the doctor's arrival; what I would consider a large dose of calomel and rhubarb was certainly not indicated; the direct cause of the spasms, in my judgment, was congestion of the brain, together with an extreme taxæmic impression of malaria upon the nerve centers; look upon the treatment of Dr. Fort, during and

after the spasms, in some respects, as injudicious and very improper; certainly, ice was used in excess, and too long continued; as used, it could not have been otherwise than injurious to the child; the child, most likely, would have died had no ice been used; I can, and therefore say that the water and ice were instrumental in causing death; they probably hastened a fatal issue; chloral, in such cases, I consider proper and judicious when properly administered; the quantity given is not stated, I can't therefore say that too much was given; it certainly was not too long continued; the injection of quinine into the veins was not necessary; don't see what good could be expected from such a combination and administration of calomel, Dover powders, quinine and bismuth; consider it improper treatment; it is evident that the child was not benefited by the treatment, and considering all the symptoms in the case, and the treatment used, a fatal termination was brought about sooner than might otherwise have been expected had the case been left to nature.

3d Ans. to int :

The child, in my opinion, died of what is properly called congestive or pernicious intermittent fever, hastened by improper and injudicious treatment.

4th Ans. to int :

I consider the ice, as used in the case, sufficient in itself to cause his death.

5th Ans. to int :

Consider the ice alone as used in the case, sufficient to cause the death of a five-year-old child, in almost any state of case that may have existed, as indicated by the symptoms.

6th Ans. to int :

The treatment I do consider sufficient to cause the death of a well child of his age and physical strength.

7th Ans. to int :

This interrogatory I consider answered in the 6th preceding answer.

LEO HARRISON, M.D.

CROSS-EXAMINATION.

To the cross-interrogatories, the said witness answering says :

1st Ans. to cross-int :

After an examination of the report of the history, treatment and symptoms of said case, as set forth in exhibit A, I find no trouble in making up my mind as to the true nature and character of the disease of which he died; he certainly died of congestion, or what is the same—pernicious intermittent fever.

2d Ans. to cross-int :

In some respects I consider the treatment pursued by the attending physician appropriate; in other respects very inappropriate.

3d Ans. to cross-int :

The convulsions I consider due to congestion of the brain, aided, perhaps, by the poisonous effect of malaria.

4th Ans. to cross-int :

Don't say that the hydrate of chloral was improperly used, or given in excessive quantity.

5th Ans. to cross-int :

My opinion in reference to the use of cold water and ice, as used in this case, is based alone upon the report of the case as made in exhibit A.

6th Ans. to cross-int :

The treatment laid down by standard medical authorities, such as Flint, Smith, Harishorn, and others, to be pursued in the treatment of acute cerebral affections, acute

congestion, acute meningitis, cerebritis, etc., is such as will cause prompt and active derivation from the brain, as hot stimulating foot-baths, cold to the head, active purgation, etc.; bromide of potash seems to be the remedy par excellence, in these diseases; experience proves that it lessens very materially the amount of blood in the brain; does this by means of its power of lessening the calibre of the meningeal vessels; then it should be given freely from the first; in addition to this, such medicines as allay nervousness, prevent convulsions, and produce sleep, should be given as freely as the nature of the case demands; chloral and chloroform have been freely used for this purpose; calomel given all through the course of some of these affections, has had its advocates, but now they are few—the same ends being obtained by the potassium salts, calomel being used only as an occasional purgative.

7th Ans. to cross int :

I never have seen a well child treated as was the case in question; but common sense, and the well known action of ice dictates to, and forces upon me the opinion given in answer to the above interrogatories in reference to the ice and cold water used in said case; no child, in my opinion, whether sick or well, can have ice continuously applied over and around its head, as was the case with Chas. D. Peterson, and for the same length of time without succumbing to its effects.

8th Ans. to cross-int :

From exhibit A I can arrive at an exclusive and satisfactory opinion as to the character of disease, its origin or cause and its course; the treatment laid down in exhibit A as pursued by the attending physician, is to my mind clear and satisfactory, except in a few instances—the quantity and the intervals between the doses is not given; in

other words, exhibit A satisfied my mind as to the treatment pursued by the attending physicians.

LEO HARRISON, M.D.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

I, J. P. Graham, a notary public in and for said Lamar county, hereby certify that the foregoing answers of Dr. Leo Harrison to the interrogatories and cross-interrogatories aforesaid, having been reduced to writing by me, at the date hereof and the place aforesaid, were then and there sworn to and subscribed before me by the said witness, Dr. Leo Harrison, M.D.

In testimony whereof I have hereto set my hand officially, and impressed my seal of office, at office in said county, this September, 11th A. D., 1878.

[SEAL.]

J. P. GRAHAM,

Notary Public,

Lamar Co., Texas.

GEO. E. LONG.

Dr. Geo. E. Long, one of said witnesses, responding to the interrogatories and cross-interrogatories, says:

1st Ans. to interrogatory :

My name is Geo. Long; am 36 years of age; reside in Paris, Lamar county, Texas; am a practicing physician; am a graduate of Miama medical college, Cincinnati, Ohio; have been practicing medicine constantly for three years.

2d Ans. to int :

After a careful examination of said report and said symptoms as delineated in exhibit A, and the treatment therein set forth, I think the symptoms, etc., indicate that

the child had a congestive chill when the doctor was first called; do not think there was a necessity for the large dose of calomel and rhubarb; they were not indicated; congestion of the brain was most probably the cause of the spasms; predisposed by medical influences, I do not think said treatment was altogether proper and judicious; he died, in my judgment, from the use of entirely too much water and ice, and used them too long—they were continued entirely too long; I think they were injurious to the child from being continued so long; think the water and ice materially contributed to hasten death; the child would have probably died without them, or perhaps not; cannot say they were instrumental; the chloral, if given in proper quantities and proper intervals, in this case, was a proper remedy, but can not tell from said exhibit what quantity was used; the injection of quinine into the veins was not proper treatment, but the injection into the cellular tissue of the skin would, perhaps, have been proper—or what is called hypodermical treatment; do not think the doses of calomel, Dover powders, bismuth and quinine a proper and judicious remedy; do not see that they were indicated; considering all the symptoms of the case and the treatment used, I must say the child was not benefited by the treatment, and would have lived longer if left alone, without treatment, at all—that with the treatment used as set up in said exhibit; it, perhaps, might have died with the best of treatment.

3d Ans. to int:

I think the child died of congestive fever—his death having been hastened by injudicious treatment.

4th Ans. to int:

I think the ice, by itself, applied as stated in exhibit A, might have caused the child's death.

5th Ans. to int:

Think the treatment of the case taken altogether, from

said exhibit, was sufficient to cause the death of a five-year child, in almost any state of case.

6th Ans. to int :

Think such treatment was sufficient to cause the death of a well child, though I never saw a well child treated in that way.

7th Ans. to int :

Have nothing further to offer in answer to this question.

GEO. E. LONG.

CROSS-EXAMINATION.

To the first cross interrogatory, the said witness, Geo. E. Long, answering says :

1st answer to cross-interrogatory :

I can form a satisfactory opinion as to the true nature and character of said disease ; in my judgment the disease was cogestive or pernicious intermitten fever.

2d Ans. to cross-int :

Think I can form an intelligent and accurate opinion as to the appropriateness, and so on, of the treatment of the attending physician in said case, from said exhibit, except as to quantities of chloral and intervals of same and quantities calomel and rhubab.

3d Ans. to cross-int :

I would attribute the convulsions, under the circumstances detailed in this interrogatory, to be due to taxæmic causes, with malaria as the agent in producing them.

4th Ans. to cross-int :

Did not state that hydrate of chloral was improperly used or given in excessive quantity.

5th Ans. to cross int :

My opinion as to the use of the water and ice was based solely upon the statement in exhibit A.

6th Ans. to cross-int :

The plan of treatment in such cases as are stated in this question—as laid down by such standrd authorities as Meigs & Pepper and Tanner, and James Burns and other medical works generally, is such as active derivations from the brain, such as cold water to the head, hot stimulating baths, stimulating applications to the extremeties, with sufficient purgation, and remedies to allay febrile excitement and restlessness—blisters to head after activity of disease has passed.

7th Ans. to cross-int :

I never saw a well child treated as stated in the question, but I base my opinion upon general therapeutical principles, and the very well known effects of ice.

8th Ans. to cross-int :

I think from exhibit A I can form, or arrive at an exclusive and satisfactory opinion as to the character of disease, its origin, cause and course ; it depends upon whether said s'atements in exhibit A be correct ; it affords ground for an opinion ; I can also form such an opinion as to the kind, amount, time and mode of administering the medicens, etc., pursued by the attending physicians, except as to the intervals between the doses of chloral and the quantity of same, and quantity of calomel and rhubarb given.

GEO. E. LONG.

STATE OF TEXAS, }  
LAMAR COUNTY. }

I, J. P. Graham, a notary public within and for said Lamar county, do hereby certify that the foregoing answers of the said witness, Geo. E. Long, M.D., to the inter-

rogatories and cross-interrogatories, aforesaid, were by me reduced to writing at the date hereof and place aforesaid, and were then and there by said witness, Geo. E. Long, M.D., sworn to and subscribed before me.

In testimony whereof, I hereto set my hand officially, and impress my seal of office, at office in said county, this September 12th, A. D. 1878.

[SEAL.]

J. P. GRAHAM,  
Notary Public,  
Lamar Co., Texas.

#### EXAMINATION ON THE STAND.

Dr. Leo Harrison sworn :

Am a physician; have been in the practice of medicine about two years in the city of Paris, Lamar county, Texas; have heard the history of said case, as given by both plaintiff and defendant; patient had, in my opinion, billious remittent fever, or, as some prefer to call it, remittent fever, with a marked tendency from the first to congestion, or more properly, malignancy. Billious remittent and remittent fever, are one and the same disease. The doctor had seen and treated this same child frequently before in attacks of billious remittent fever, and finding the same train of symptoms present at this time, together with a history of fever for a day or two past, with marked remissions and exacerbations, naturally looked upon it as a case of fever of the type mentioned; when he was called back in an hour or such a matter, and found the child in a convulsion he changed his opinion; and though the convulsion had a centric origin, thought it was due to some disease of the meninges of the brain, or of the brain itself.

I see no good reason for a change in the diagnosis. He was right in the first instance, wrong in the second. The convulsion is nothing more than might be expected under the circumstances. Nothing is more common in this latitude than to find children of a highly nervous temperament thrown into spasms from very slight causes, and more especially when there is an exacerbation of fever of malarial origin.

Such is my idea of the case before us. The convulsion was not of centric origin, but was due to an extreme toxæmic impression of malaria upon the nerve centres. The convulsions that came on later in the attack were due, in part, to a continued action of the poison of malaria in the blood, and in part to the effect of the first few spasms. When spasms are severe and protracted, and continue to recur after a lapse of a few minutes or hours, a natural result is congestion of the brain, with resulting compression due to the effusion of the serum of the blood, or the extravasation of blood itself from a ruptured vessel; and not a single symptom was noted in this case, after the first two or three convulsions, that might not be attributable to compression of the brain.

For several reasons, we conclude that the child did not have meningitis. In the first place, to the time of the first convulsion, there is not the first symptom of brain-wrong. After this period in the history of the attack, there is not a symptom that may be due to congestion of the brain, with resulting compression.

Meningitis, as a rule, is preceded by symptoms which in this case were not present. These symptoms make up the forming or premonitory stage, and last from a few days to two or three weeks. This is the rule, the contrary a very rare exception. Meningitis does not run its course so rapidly as to end fatally in 26 to 28 hours. Prof. Flint mentions a case that terminated fatally in 36 hours. I repeat,

then, that I regard this as an almost typical case of bilious remittent fever.

My treatment of the case during the first paroxysm, would have been that pursued by Dr. Fort. So soon as the child was able to swallow, I would have commenced the free administration of bromide of potassium and hydrate of chloral. And, looking upon it as a case of remittent fever of a malignant type, and knowing that most likely the child would not survive another exacerbation, I would have resorted to the most available means of quickly saturating its system with quinine. I would have given it almost without regard to quantity. It is better to give too much than too little. The effects of too much quinine soon pass off, too little, in a case of this kind, never.

Children bear proportionately larger doses of quinine than adults. Dr. Fort, in my opinion, gave entirely too little. I should have given at least three times as much. Five times the quantity would not have produced any serious results, while it might have saved the child from a premature grave. Quinine may safely be looked upon as a specific in affections of a malarial origin, and when given in time and in due quantity, will prevent the severest paroxysms.

Calomel is a mild chloride of mercury. The calomel and rhubarb had no effect in producing the convulsions. At the ordinary temperature of the body, I do not think calomel when introduced into the stomach is, in any quantity, converted into the bi-chloride of mercury.

Calomel evidently at times irritates the stomach, from the fact that nausea, and even vomiting occasionally, follows its administration. It is sometimes, however, given in an opposite state of affairs. In cases of obstinate vomiting, that has resisted almost everything else, it is given as a last resort, and frequently with the happiest effects. Calomel, in these cases, seems to act primarily as a sedative. When there is an extreme degree of cold

upon the brain, from the application of ice, I think it almost impossible for any quantity of ipecac introduced into the stomach to produce emesis. There is a very close relationship existing between the brain and stomach through the ganglionic system of nerves. Do not think that cold water applied to the head could effect this system of nerves sufficiently to prevent the action of ipecac. Under favorable circumstances ipecac will cause vomiting in fifteen minutes.

Ice as used in this case I consider highly injudicious. It was used too freely and too long continued. When judiciously used it is an agent of unquestionable therapeutic value. When used at all it should not be allowed to remain long in one position. It should be applied in rubber bags of such dimensions that room is left for constant shifting. The bags should be separated from the scalp by two or three thicknesses of muslin. Ice should under no circumstances be applied to the head when the temperature is not elevated above the normal standard. When there is much prostration, cold water applications should in every instance be substituted for the ice. Under all circumstances, I prefer the use of water to ice—applied by means of continual irrigation is my preference. In this way there is no danger of the bad effects from reaction. When cold, in the form of ice is applied for a time and then removed—the reaction works as much or more mischief than could be feared from its continuous application. I know of no disease in which ice could be continuously applied for any considerable time without frequent shifting from place to place, and not work mischief. I do not think that three, or even two, bags of ice of the size before us could be used judiciously—that is, constantly applied without great danger to the patient. Cold, when constantly applied, acts on the entire system as a powerful sedative. The sensations are those of a violent shock to the nerve centres, with a gasping breath, shivering, etc., etc.

This is an effort at reaction ; but that soon ceases, and great depression follows. The skin is shrunken, palid and purple in patches ; the pulse gradually sinks until it can no longer be felt ; severe pains are felt in different parts of the body ; the muscles and joints become stiff and inflexible, and finally drowsiness comes on, speedily ending in a fatal stupor.

When the premonitory stage of menengitis has passed, lasting as before stated from a few days to as many weeks, some of the symptoms present in that stage are simply intensified while others new and more characteristic appear. The child has lost its accustomed vivacity and cheerfulness ; its look is rather subdued and melancholy ; loud noises and bright lights are painful. During the premonitory stage, it can sometimes be amused by its companions for a short time. Not so now. All attempts to amuse it or engage its attention irritates it. He has a wild expression of the face, and unless molested, lies quiet with its eyes closed. The features wear a still more melancholy expression than is seen in the premonitory stage. Nausea or vomiting and constipation are symptoms rarely absent. Whithin three to five or six days, symptoms arise which are still more characteristic. You now have symptoms from compression of the brain, by the products of inflammation ; loss of consciousness in severe cases ; the eyes present an abnormal appearance, and are among the first to appear ; the pupils respond sluggishly to the stimulus of light ; there may be an irregularity in the size of the pupils. At a later period the eyes have lost their normal parallelism, and the pupils are widely dilated and insensible to light ; the sense of hearing is soon lost ; the action of the heart and lungs undergo very marked changes ; the pulse is irregular and slow ; and though accelerated in the first instance, may now drop down as low 50 or 60 beats to the minute. As death approaches it again becomes rapid and feeble ; the breathing is accom-

panied in most cases by sighs; it is also intermittent. After these symptoms have continued a few days, coma sets in and death soon follows. Most fatal cases of meningitis terminate between the fourth and twenty-fifth day. Death, from meningitis is the rule. Meningitis is more common among children from 1 to 4 years of age. The prognosis is not so unfavorable in simple as in tubercular meningitis. It is impossible to distinguish between inflammation of the membranes of the brain and the brain itself. I believe the two diseases always exist together—whichever may have been primarily involved the diseased action extends to the other. My idea, however, is that the disease first makes its appearance in the membranes—the brain becoming secondarily involved. It is a matter of little consequence, however, which you have to deal with, since the symptoms and treatment in each are the same.

As a remedy for convulsions hydrate of chloral is looked upon with much favor by medical writers. I have never seen any bad effects from its administration. It quiets restlessness and produces sleep. It produces sleep nearer allied to natural sleep than that of any known drug.

Do not think the quantity of chloral given on Monday morning in the least detrimental to the patient. Think it might have been safely given, under the circumstances, in twice the doses. Dr. Fort did not reach the patient in time to have prevented, or even mitigated the first convulsion by the administration of calomel and rhubarb. The dose, had it been given in time, would most likely have mitigated the severity of the paroxysm.

From the hypothesis of defendant I regard the use of ice as hastening death, though death, in my opinion, would have resulted had the case been left to nature. By proper treatment the patient might have recovered. The great mistake was in not giving quinine more freely on Sunday night. Spasms are common among children of a nervous temperament. My treatment, during the first convulsions,

would have been that prescribed by Dr. Fort. You can not tell when the convulsion will return.

#### CROSS-EXAMINATION.

Chloral produces sleep, quiets the nerves and gives rest to the brain. It is one of the most approved remedies in the treatment of convulsions, whether centric or excentric. Convulsions are of three kinds—centric or symptomatic, excentric or sympathetic, and essential or idiopathic. The centric are the most dangerous, unless we except the sympathetic convulsions, coming up in the last stages of the eruptive fevers. When called to see a patient in a convulsion it is impossible to tell to which class it belongs. Yet, a general warm bath and cold to the head should not be neglected. A foot bath when a general bath can not be had. Ipecac, under the circumstances, to unload the stomach, was a most judicious remedy. Ipecac given under favorable circumstances, usually produces vomiting in about fifteen minutes. A spasm may last from a minute to an hour and a half or even longer. Usually they are of a few minutes duration. Yet, reasoning by exclusion, the prudent physician, in the case of convulsion, would naturally enquire whether or not the patient had been exposed to the poison of any of the eruptive fevers, or the poison of malaria, before he could determine as to the character of the convulsion. In exceptional cases the cause is ascertained upon a superficial examination, and such a reasoning by exclusion is not necessary. The symptoms and treatment of meningitis, I repeat, are the same.

The object in making cold applications to the head and warm to the feet is to bring about an equilibrium in the circulation. In meningitis there is often apparent improvement for a short time, but the appearance is delusive. A person unacquainted with the disease can not form a correct opinion of the patient's condition.

Meningitis is a rare disease in this country. In my practice I have not seen but one case; have not heard of another in and around Paris. The first spasms were sympathetic. After a time they were produced in part by compression, either from a clot or an effusion of serum, and were consequently in part symptomatic.

If the condition of the child was correctly represented on Sunday evening and Sunday night, I think it highly improbable that it should have so perfectly recovered its consciousness as to recognize those around him, and talk to them rationally. I never have known of a case exactly similar to this one. The physician, of course, is the best judge as to the actual condition of the patient. He only, as a rule, can tell to a certainty whether or not, the apparent improvement, in the symptoms, is delusive.

#### EXAMINATION.

Dr. W. E. Dailey sworn :

Am a practicing physician; have been engaged in the practice of medicine since 1861.

Believe that hot weather and eating watermelon, the evening of the 29th of July, caused acute indigestion. This, together with malarial influences operating, gave rise to fever that night, and caused the child to have a restless and fretful night, at least so until the bowels moved freely, as shown by exhibit of Peterson's, sometime during the middle or latter part of the night.

The child eating a full breakfast next morning, the 30th, increased intestinal irritation occurred, and nothing done to remove the crude matter indigested, convulsions followed. The convulsions being severe, and great afflux of blood to the brain, gave rise to active cerebral congestion, with extravasation of blood, and formation of a clot as a result.

I see no impropriety in the administration of calomel

and rhubarb in proper doses, as ordered by the plaintiff; should myself, under the circumstances, have preferred a saline cathartic.

Taking in consideration the severity of the convulsion, build, temperament and previous good health, immediately after first convulsion I would have taken blood from the arm, and to still further cause derivation of blood from the brain, should have used hot water and mustard foot-baths, general warm bath, and cold to the head—preferring to use cold, by means of the process of irregation, to ice in rubber bags. Would give, under the circumstances, bromide of potash to contract the cerebral blood vessels, and chloral hydrate to subdue nervous irritability and secure rest and sleep.

The effect of cold is depression. When first applied there is a shock, followed by shivering and chillness, false skin, embarrassed respiration; if withdrawn there is reaction, and in place of unpleasant symptoms there is an agreeable sensation of warmth. If carried beyond the ability of the subject to bear, we have continued shivering and chillness, increased palor of skin and embarrassment of respiration, sinking of pulse, chattering of teeth, blue lips and nails, drowsiness comes on, and this is followed by a fatal stupor. The testimony as adduced, indicate clearly to my mind, that the ice was improperly and injudiciously employed.

To materially aid in contracting the convulsions, I should have, in all probability, used the chloral hydrate more freely than used in this case. Do not regard the convulsions were due to any brain lesion, whatever, but that active cerebral congestion was the result of the convulsions. When the proper effect from cold has been reached it should be withdrawn. Very few persons are sufficiently acquainted with the pulse to tell when this is reached—none but professional nurses or physicians are to be relied upon.

Would not rely upon the opinion explicitly of a non-professional person when this remedy should be used or withdrawn.

From all the facts considered, I regard some of the remedies used, as proper, and some of them highly improper. From the treatment pursued by the attending physicians the child could not have recovered, though it is likely the child would have died if left alone.

#### CROSS-EXAMINATION.

This form, or variety of eclamsia, is known and recognized as sympathetic convulsions. Sympathetic convulsions have numerous causes. Among these may be enumerated—disturbances of the intestinal tract, worms, teething, the eruptive diseases, pneumonia, etc. Lesions of the brain and spinal cord cause symptomatic convulsion. The physician finds it difficult and embarrassing at times, during a paroxysm, to determine whether the convulsions be sympathetic or symptomatic.

For the purpose of lowering temperature and propelling blood from the brain by contracting the blood vessels, good standard authorities recommend that ice should be used.

Have never used ice myself to the head for any purpose—greatly prefer cold water by the continuous application of cloths, or that which is far better—irrigation, the only way, according to my opinion, it can be used continuously with safety. Some other physicians do prefer ice. All works which treat of inflammation of the brain, recommend cold applications to the head.

From the condition of the child as represented when plaintiff was first called to see it, I see no impropriety in the administration of a suitable dose of calomel and rhubarb—I am able to see no injury that could possibly occur from such a dose.

Being hastily called to a case of convulsions—having at the time no knowledge of the cause—regardless of the cause, would consider it proper to give warm baths and apply cold to the head, and as soon as possible, give an emetic—as a large majority of convulsions with children are attributable to bowel and stomach wrong. Emesis produces general relaxation, a condition describable in any form of convulsions evacuantly by mouth and bowels—as such cases are called for.

The symptoms as detailed by the plaintiff, succeeding the convulsions, showed clearly that brain lesion did exist, at the same time could resemble closely the train of symptoms following severe paroxysms of sympathetic convulsions.

In endeavoring to correctly arrive at a diagnosis in such cases, it is important to consider well all the symptoms and circumstances before an opinion should be given.

It is difficult oftentimes, in convulsions, to discriminate accurately between sympathetic and symptomatic convulsions. It is proper to use the same treatment with other forms, and while we treat convulsions, must rely on the history of the case and all the facts possible to be gathered, in order to ascertain the cause.

Bleeding is not resorted to as a remedy by the profession as much now as formerly, and is held in disfavor by some of the profession.

Where inflammation exists in any part of the body there is an undue afflux of blood. The remedies used would have the tendency to carry blood from the brain if active cerebral congestion existed.

Tanner is not in my library, though can endorse him as good authority. He does recommend ice instead of bleeding—expecting to accomplish with ice that which is intended to be accomplished by the lancet. I do not consider that the use of the lancet contra indicates the use of cold.

Meigs & Pepper, Hartshorn and Flint urge the abstraction of blood as being of the greatest importance.

#### RE-DIRECT-EXAMINATION.

Sympathetic convulsions are quite common among children of this country, while symptomatic convulsions are very rare. Have only seen two that were subjects of symptomatic convulsions in my practice.

Though ice is used as a remedy, yet I know of no case in the history of medicine, that under like circumstances, warrants the use of ice continuously for 28 hours.

#### RE-CROSS-EXAMINATION.

Patients are more apt to die from diseases causing symptomatic convulsions than those causing sympathetic convulsions, as a general thing.

Medical authorities, I believe, say that a patient may appear better, and even be conscious, when really the patient's condition is no better, and the appearance be simply delusive.

In attempting to give a proper plan of treatment for meningitis, I am guided alone by the books—having seen but two cases in the course of my practice, and these the patients of other physicians; I saw them in consultation.

The remedies endorsed as proper in such cases should be continued so long as indications call for them, and the disease fails to yield.

#### EXAMINATION.

Dr. J. R. Jones sworn :

Am a physician of 40 years experience; am a graduate of the university of Pennsylvania; have been in active practice nearly all the time since graduating.

Have examined the exhibit of J. D. Peterson giving a history of the disease, treatment and death of his little son Darwin.

Am of the opinion that his disease was intermittent fever; think so from the fact of his exemption from fever during the interval between his paroxisms.

Think he was the subject of irritable stomach and bowels, as a complication; think the treatment calculated to increase the gastro-enteric trouble—that is, the large dose of rhubarb and calomel; the ipecac given him, as it did not act as an emetic, may have increased the reflex action also.

The chloral and ice, used as reported in exhibit A, would kill a well child of his age.

The convulsions were the result of the fever increasing the irritable condition of his stomach and bowels, greatly aggravated by the large dose of rhubarb and calomel administered to him just before the first convulsion.

In answering questions from the hypothesis of Dr. Fort, I cannot approve of the use of the rhubarb and calomel as given, and at the time.

The judicious use of chloral and ice in the treatment of convulsions, I think right and proper.

The paroxysmal form of his disease evidently demanded the use of quinine. It should have been used hypodermically.

I am inclined to think the treatment excessive; though if Dr. Fort's diagnosis be correct, the treatment in the main, is that which is proper and prescribed by the profession.

#### EXAMINATION.

Capt. John O. Ewing sworn :

Was at defendant's house the day on which the child died; when I first saw the child, about 2 p. m., it was in a very bad condition—saying sometimes, "I am very sick;" don't know what medicine was given; ice was constantly applied, in little rubber bags 3 or 4 inches wide and perhaps 5 or 9 inches long; there were three or four bags around the child's head, and were kept on while I was

there—about three or four hours; have attended several sick persons; suppose the sacks would hold 5 or 6 ounces of ice; don't know how many doses of medicines were administered to the child while I was present; the child's face, legs and feet were cold; don't know how its eyes looked; suggested that the child should have a warm bath, and heated the water myself; the child's hands and feet were rubbed with mustard, but with no effect.

#### CROSS EXAMINATION.

Visited the child at 2 p. m. Monday, the day the child died; returned at 7 or 8 p. m. and found the child dead; when I arrived at 2 p. m. the child was then said to be dying; don't know that the bags were full of ice; they were filled so that they could be tied up to prevent leaking; Mrs. McDonald, Mrs. Grant, Mrs. Pierson, and several other ladies were present when I arrived; don't remember begging the doctor to take the ice away from the child's head; don't know that there was any objection by the doctor to bathing the child in warm water, but know that the child was afraid of the water, and some one objected and said, "put the child back in the bed;" suggested the warm bath and dry mustard, myself; it was between 3 and 4 p. m. when I undertook to bathe the child; his head was cold; when the child was taken up to be shrouded, the bed and mattress were wet and cold from the melted ice; the weather at this time was very warm; an oil-cloth was placed under the child to protect the bedding.

#### EXAMINATION.

R. Peterson, defendant, sworn:

Was living on Birmingham street in July, 1876; Dr. Fort lived opposite; he was my family physician for five or six years; my son, Charles Darwin Peterson, is now dead; he was 4 years and 3 months old; he died July 31, 1876; he was of a strong, robust constitution, and of a

nervous temperament; he was taken sick from eating a watermelon Saturday evening, July 29th; had fever that night, but on Sunday morning the fever was gone; played in his swing in the morning; about 8 or 9 a. m. he came in the house, and the fever came on again; at dinner, 2 p. m., Dr. Fort was called in, and prescribed a large dose of medicine which looked like calomel; I went away and returned about 4 p. m.; found the child with a spasm on him, and the doctor bathing him with cold water; ice was applied to his head, and he soon became easy, and went to sleep; the ice was applied about 5 p. m.; the spasm had ceased before the ice was used; he slept during the night very well—several doses of chloral being used to quiet his uneasiness; ice was applied in napkins Sunday night, but indiarubber bags were used Monday morning; ice was placed almost over the entire head except where it lay on the pillow; the bags were placed on each side of the head, front and back; this ice treatment continued from 5 p. m. Sunday until his death Monday afternoon; I paid for about 80 pounds of ice, and after the death of the child only about 30 or 40 pounds were left unused; the sacks will hold 12 ounces of water, as tested at Reuss & Ernst's drug store; have no means of knowing the amount of chloral used; don't know when the chloral was begun to be used.

#### EXAMINATION.

Dr. Long sworn:

From symptoms detailed by witnesses, I think the disease was caused by malarial influence, and styled congestion or intermittent fever. Whatever fever the patient had, in my opinion, was caused by congestion.

The communication published in Common Sense asking Peterson to give the names of the physicians who attended his child acknowledged. Theory and practice by John Bell regarded as standard authority.

## CROSS-EXAMINATION.

Chloride of mercury may be converted into bi-chloride of mercury—a deadly poison; the symptoms of poison by chloride of mercury, are vomiting and great pain in the stomach; there are no symptoms given in the hypothetical case by defendant; calomel and rhubarb is given to act upon the stomach and bowels; do not think that the convulsions were caused by the medicine; its influence would be to remove the pressure upon the brain rather than to produce convulsions or to aggravate congestion; do not say that the chloral could be converted into poison in so short a time—thirty minutes; rhubarb is given with calomel to purge the stomach and touch the brain; have never known calomel and rhubarb to be converted into poison in thirty minutes; poison could only occur by the mercury coming in contact in the stomach with hydrochloric acid or some chlorine salt, and then do not know whether heat is required to produce the chemical change; am not a chemist and not familiar with the result of mixing acids; from statement given of the case by defendant, the bowels having acted freely, convulsions must have emanated from the brain.

[Statement of the case by Dr. Fort again read for the benefit of physicians not before present.]

In case of a robust child with symptoms, as indicated and statement of facts, a dose of calomel and rhubarb was the proper remedy to apply; the bowels should be moved by all means; the brain was certainly affected and should be touched; it is difficult from an non-professional report, to ascertain the condition of the patient; from Dr. Fort's statement his treatment was eminently correct; the ipecac was a proper remedy to unload the stomach; in case of convulsions warmth to the feet and cold applications to the head, as prescribed, was the proper treatment; children are subject to centric and eccentric convulsions; cen-

tric convulsions originate from brain affections; eccentric convulsions from the stomach and other outside causes; it is often difficult to determine between the two; where it is centric the disease is regarded as alarming; the eccentric is not dangerous; when centric, remedies are at once applied to the brain by cold applications; in some cases the meninges of the brain, and sometimes the brain itself, is involved; in both instances the term *incephalitis* is applied, and often difficult to determine between the two; in both, the treatment is the same—cold applications, upon the revulsive principle; from symptoms after convulsions, as detailed, when the stomach had been emptied, would conclude that the brain was involved, from some cause, as congestion was apparant; congestion is an accumulation of blood about the brain—certainly cerebral congestion; would persist in the cold application so long as the brain seemed affected—the head being hot, etc.

#### RE-DIRECT-EXAMINATION.

In hypothesis of plaintiff being correct with centric convulsions, it is not probable that the child could have been better on Monday morning; if better, the convulsions must have been eccentric, and originating from poison in the blood; when the convulsion is eccentric, the treatment by calomel and rhubarb would tend to irritate the stomach; poison sometimes manifest itself by convulsions as well as by vomiting; I see no indications in this case of poison from corrosive sublimate; had the brain been affected the treatment by ice would have resulted in the death of the patient had it been kept up a sufficient length of time.

#### EXAMINATION.

Reuss sworn:

Am a druggist; [sack exhibited]; weighed the sack this

morning; it weighed 1 ounce without ice, when filled with ice it weighed 10 ounces; Mr. Hodges gave me the sack with the ice in it, and asked me to weigh it.

Defense closes.

PLAINTIFF RESUMES.

Plaintiff resumes by reading certain several depositions, which are in words and figures substantially as follows, to wit:

DEPOSITION OF DAVID W. YANDELL, M. D., OF KENTUCKY.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

In the district court, spring term, 1878.

J. M. FORT }  
vs. }  
R. PETERSON. }

To RICHARD PETERSON, Esq., and Long & Bonner, his attorneys of record:

You will take notice that five days after the service hereof, we will apply to S. W. Williams, clerk of the district court of Lamar county for a commission to take the deposition of David W. Yandell, M.D., a resident of the city of Louisville, state of Kentucky, in response to the accompanying interrogatories, his answers thereto, to be used by the plaintiff as testimony in the trial of the above-entitled cause, J. M. Fort vs. Richard Peterson, now pending in the district court of Lamar county, Texas.

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,  
Attorneys for Plaintiff.

## INTERROGATORIES.

Interrogatories to be propounded to plaintiff's witness,  
David W. Yandell, of Louisville, Kentucky.

1st interrogatory :

Please state your name, age, and place of residence, and occupation or profession. If you say you are a member of any of the professions, please state how long you have so been ?

2d interrogatory :

If, in answer to preceeding interrogatory 1st, you say you are a physician, then state if you hold any position or office in or connected with your profession as a physician. If yea, what position or positions? State fully. And how long have you so held or occupied it or them ?

3d interrogatory :

Please examine carefully and closely the annexed exhibit marked "exhibit A, 3d interrogatory." If you have so examined it, please so state. If you have so examined said exhibit containing the statement of the case, and the treatment of Charles Darwin Peterson, child of Richard Peterson, then state what influence in the case, in your opinion as a physician, was extended by the dose of calomel and rhubarb administered by the physician attending at his first visit to the case.

4th interrogatory :

Please state, when mercury (calomel) is introduced into the human stomach, and comes in contact with the gastric juice, what chemical change is produced, by such contact, in the composition of the mercury (calomel); and state further what irritating or poisonous effect, if any, would the mercury (calomel), after undergoing such chemical change, have or produce upon the system. State further what symptoms, if any, accruing in the case of Charles D. Peterson, as shown in said exhibit, were, in your opinion

as a physician and chemist, the effect of mercury (calomel) introduced into the stomach of Charles D. Peterson.

5th interrogatory :

Had the cathartic (calomel and rhubarb) acted upon the bowels in said case prior to the invasion of the convulsions, what effect, in regard to the convulsions, would, in your opinion as a physician, have been produced by such action ?

6th interrogatory :

Under the circumstances of the case, as reported in said exhibit, what is your opinion, as a physician, of the practice pursued in administering the cathartic.

7th interrogatory :

After, as shown by said exhibit, the bowels had been acted upon by the enema, and the stomach evacuated by the emetic, and no undigested food or other irritating substance discharged, and the convulsions continuing, after this and other treatment, as set forth in said exhibit, and after it was ascertained that the child had not been exposed to the poison of any of the eruptive fevers, and as the child was not of an age to be teething, what, in your opinion as a physician, was the cause of the convulsions ?

8th interrogatory :

If, in answer to the foregoing interrogatory 7th, you say that, in your opinion as a physician, the convulsions in said case were produced by disease of the brain, in its membranes, and if further, as is shown by said exhibit, the attending physician saw the case for the first time at about 2 p. m., and, at that time, there were no prodromic symptoms of cerebral disease save fever, and the convulsions coming on in from half an hour to one hour thereafter, then please state with what degree of certainty, in your opinion as a physician, could the character of the disease of the brain, or its membranes, causing such convulsions,

be determined. Please state further what, in your opinion as a physician, under the circumstances, as shown in said exhibit, was the character of the convulsions in said case. State by what name or names such character of convulsions are known to the medical profession.

9th interrogatory :

Under all the circumstances of the case, as shown by said exhibit, attendant upon the invasion of the convulsions, please state fully, with what degree of certainty could a diagnosis be made of the acute disease of the brain or its membranes, producing such convulsions.

10th interrogatory :

What lesion of the brain, if any, was, in your opinion as a physician, indicated by the train of symptoms enumerated in said exhibit, as existing some three or four hours after the invasion of the convulsions?

11th interrogatory :

If, in your answer to interrogatory 8th, you state that, in your opinion, the convulsions, in the case reported in the exhibit, were centric or symptomatic, then state what peculiar physical organizations among children are most liable to this character of disease.

12th interrogatory :

Please state what is the prognosis of the disease inquired of in the preceding interrogatories ; and when not fatal, in what condition, physically and mentally, does this character of disease leave the patient?

13th interrogatory :

Please state in regard to the liability of children to convulsions in attacks of the irruptive fevers, such as scarlatina, smallpox, etc.

14th interrogatory :

If, in answer to interrogatory 8th, you have stated that

this was a case of centric or symptomatic convulsions, will you please state what course of treatment, in such cases, is advised or laid down by the standard medical authorities to be pursued. Please state the name or designation applied by the medical profession to such course of treatment. If you say such course of treatment is antiphlogistic, then please state fully what remedies are embraced in and constitute this plan of treatment.

15th interrogatory :

Under the circumstances and history of the case, as described in said exhibit, what is your opinion, as a physician, of the course of treatment pursued therein? State fully.

16th interrogatory :

Please state your opinion, as a physician, of the treatment pursued during the continuance of the convulsions, as shown in said exhibit. And state further how such plan of treatment so shown, agrees with the plan of treatment in such cases laid down in the standard medical authorities ; and state your opinion as a physician, as to the plan of treatment agreed upon and pursued by the attending physicians, after the cessation and during the non-existence of the convulsions through the night following their invasion.

17th interrogatory :

When a case presents the general symptoms, as shown in said exhibit, and the special symptoms of abnormal heat of the head, frequent livid flushings of the face and scalp, with great agitation of the patient, as evinced by the great rigidity of the muscles, chattering of the teeth, clenched hands, etc., please state your opinion, as a physician, of the practice pursued in making cold applications to the head ; and of the manner in which said applications are made. State the effect produced by cold applications by ice to the head, and the effect of cold applications by the pouring of

cold water, from any height, upon the head; and state fully the difference, if any, in the effects produced by these two methods of making cold applications. And state which, in your opinion as a physician, is the best method of making cold applications in the acute cerebral diseases, such as is reported in said exhibit; give your reason therefor, and state the rule laid down by the standard medical authorities on these points. Please state further how long such cold applications, in your opinion as a physician, should be continued. State the line of practice upon this point, enumerated by the standard medical authorities.

18 interrogatory :

In your opinion, as a physician, how would you regard the use of hydrate of chloral in the case reported in said exhibits, when undue excitation of the nervous system exists?

19th interrogatory :

From your own knowledge of the science and art of medicine, how would you regard the opinion of anyone not a physician, as to the nature and character of the disease, such as is reported in said exhibit, and the proper remedies to be used, times and modes of administration, etc.?

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,

Attorneys for Plaintiff.

#### EXHIBIT A, TO THIRD INTERRÔGATORY.

Report of the case of Charles D. Peterson, deceased, child of Richard Peterson, Esq. :

##### CASE.

Robust male child, aged four (4) years, short neck, large head, red hair, florid complexion, nervous sanguine temperament.

Was called to see this case about 2 o'clock p. m., July

30th, 1876. The symptoms present were fever, but not of a high grade; tongue covered with a light brown coat; pulse accelerated, but regular respiration, slightly hurried, but not more than usual with children with fever; bowels not having moved since the day before; expression of the countenance natural; stomach quiet; no abnormal heat of the head or other symptoms indicating cerebral disturbance. His mother informed me that he had considerable fever during the night previous, and that there was a remission during the early part of the morning; that he got up, was dressed, ate his breakfast, and played with his toys. She further informed me that he had eaten freely of water-melon the evening before, and that she had given him, during the night and morning, several powders (the exact number not remembered). The powders were made after the following formula:

R -Calomel.....grs. v.  
 Dover powder.....grs. v.  
 Sub-nit. bismuth.....grs. x.  
 Making 10 powders, 1 to be given every 2 or 3 hours.

This little child had frequent attacks of disordered bowels, sometimes accompanied with fever, and these powders given as above directed, generally relieved him. His mother had them on hand, and gave them on her own accord. I had prepared the powders for her (at her request) to take with her while on a centennial trip, from which they had returned some two or three weeks previous. I had treated this child in repeated attacks of remittent fever, and from symptoms present, taking in connection with the history of the case, as given by his mother, at my first visit, at about 2 o'clock p. m., July 30th, 1876, I concluded that the child was suffering from a mild attack of billious remittent fever, and administered a cathartic dose, of calomel and rhubarb, some four or five grains each. In about an hour or an hour and a half I was called hastily to see the case, and upon my arrival found the child in a severe

convulsion. I at once called for warm water in which to bathe him; it having been brought in a vessel too small to give a general bath, I used it for a pediluvy, and at the same time poured cold water upon the head. There having been no visible effects from the cathartic, neither vomiting or purging, I administered an enema of warm soap-suds which acted promptly and freely. The convulsion passed off, having lasted some fifteen or twenty minutes, but in a very short time was followed by another equally as severe and protracted. I again used the warm pediluvy, having made the addition of mustard thereto, and renewed the pouring of cold water upon the head. As soon as this second convulsion subsided I administered an emetic of ipecac, which acted well—producing prompt and free emesis. The convulsions continuing and becoming, perhaps, even more severe and protracted, notwithstanding the free action of the bowels and the thorough action of the emetic, and as no irritating substance or undigested food had been passed either from the bowels or ejected from the stomach, and learning from enquiry of his parents, that the child had not been exposed to the contagion of any of the eruptive fevers, and as the child was not of an age to be teething, I expressed the opinion—I said to the mother and others present that the convulsions were, in my opinion, produced by disease of the brain—I was of the opinion that I had a case of symptomatic or centric eclampsia to contend with. By the application of powdered ice wrapped in a napkin to the head, friction to the extremities and cautious inhalations of chloroform, the convulsions ceased, having lasted, as it seemed to me, an hour and a half or two hours. After the cessation of the convulsions, or some two hours after their invasion, I regarded the case as almost a hopeless one, from the lesion of the brain then existing, as was evidenced by the following train of symptoms then present, to wit: The countenance of the child was void of expression, the pupils widely dilated and insensible to the

stimulus of light, respiration hurried, pulse irregular, face and scalp flushed, hands clenched, grinding and chattering of the teeth, stupor, etc., all evincing a very great excitation of the nervous centres. I called in Dr. Gibson, the nearest physician, to see the case with me, who, after an examination, and on learning the history of the case, and the treatment which had been pursued up to that time, fully agreed with me in opinion as to the character of the convulsions, and from the condition and appearance of the child at that time, we gave it as our opinion that the child would not survive the night. We communicated to the parents of the child this opinion. Just before the arrival of Dr. G., I administered hypodermically about one-half grain of sulphate of quinine, and to allay excitation of the nervous centres and to relieve the convulsed condition in which the child remained, I gave two or three grains of hydrate of chloral. Dr. Gibson advised a repetition of quinine—the same quantity to be administered as before, in the course of two and a half or three hours from the time the first was given, which was done. We agreed to pursue the following course of treatment through the night, (if the child would live so long), unless circumstances indicated a change necessary (Dr. Fort to remain with the case): Cold applications to the head to be continued by the judicious use of ice, frequent mustard foot baths, the body to be wrapped in flannel and kept warm, cloths wrung out of warm water to be applied to the chest and abdomen, quiet enjoined, nervous agitation to be controlled by the administration of an occasional dose of hydrate of chloral; also the following:

R—Calomel.....grs. iij.  
 Dover powder.....grs. ij.  
 Sulph. Quinine .....grs. vj.  
 Sub-nit. Bismuth.....grs. iij.

Make 4 powders, 1 to be given every 3 hours.

I remained with the case during the night, and watched

its condition closely. Whenever from a neglect of, or a withdrawal of the cold applications, the head would become too hot, the child would become restless, and marked indications of a return of the convulsions would present themselves, the cold applications to the head evidently exercised a very happy sedative influence, as was shown by the calming and quieting effects upon the patient. The treatment as determined upon was continued during the night. For an hour or two, during the morning, July 31st, 1876, the child was more calm and rational—could understand what was said to him, and answered correctly some questions asked him. Dr. Gibson saw the case with me at about 8 o'clock a. m., and although the child seemed better, we were satisfied that it was delusive, and would last but a short time, as there was no relief or amelioration in the cerebral symptoms. These symptoms I recapitulate : abnormal heat of the head, frequent livid flushings of the face and scalp, with each flush there was a great increase of agitation, hurried respiration, pupils widely dilated, and insensible to the stimulus of light, blindness, pulse irregular, extreme agitation, clenched hands, etc. We shaved the back of his head as far up as the top of the ears, and applied a blister, having first made several applications of the tincture of iodine, letting the blister extend down upon the nape of the neck. The treatment pursued during the night was continued during the day, except that we increased the quantity of calomel one grain every three hours, with a view of promoting further action of the bowels. The cold applications to the head were kept up during the day, July 31st, by means of two rubber-cloth bags, each holding not more than two ounces of powdered ice; the bags not being permitted to remain long in one position against the scalp; frequent mustard foot-baths; the extremities to be rubbed with dry mustard after bathing; the body to be kept warm by means of shawls, blankets, etc.; cloths wrung out of warm water to be applied to the

chest and abdomen ; alterative doses of calomel and Dover powders, quinine and bismuth, with an increase of calomel as before stated, continued every three hours ; hydrate of chloral to be used, as seemed indicated ; sometime during the forenoon a mustard plaster was applied the full length of the spine (the exact time not remembered). As the day advanced the cerebral symptoms increased in severity ; the flushing became more livid and accompanied by greater agitation ; the fingers and thumbs were forcibly drawn in the palms of the hands ; if paralysis existed it was slight and of the left side ; there was a higher degree of temperature and a fuller and more resisting pulse on the left than on the right side ; the eyes retained their normal axis. In spite of our best efforts our little patient died, about 8 o'clock p. m., July 31st, some 26 or 28 hours after the invasion of the convulsions.

J. M. FORT.

I have carefully considered the foregoing statement in regard to R. Peterson's child, and fully concur therewith. As regards the condition of the child from the first time I saw it, and receiving Dr. Fort's statement of the case, as it was prior to my first visit, I found the above report to be correct.

D. H. GIBSON.

J. M. FORT }  
 vs. }  
 R. PETERSON. }

Now comes the defendant and files the following cross-interrogatories to be propounded to David W. Yandell, of Louisville Kentucky :

1st. cross-interrogatory :

Please state what your course of treatment would have

been in this case, based upon J. M. Fort's diagnosis, as stated in exhibit A.

2d cross-interrogatory :

State whether or not your opinion depends entirely upon the correctness of the diagnosis, or whether or not any slight change of the same would not entirely change your opinion.

3d cross-interrogatory :

State whether you ever gave chloral of hydrate to children. If yea, at what age? under what circumstances? how much? for what diseases? and what is its effect? and of what is it composed? and is it not a poison? and does it not frequently produce death? and make persons delirious and produce convulsions? and could you distinguish convulsions produced by poisonous medicines from those produced from disease and other causes?

4th cross-interrogatory :

Please state whether you are prepared to give a definite opinion under oath without having seen and examined the deceased, during his illness, or without having heard all the testimony as to the facts in the case.

5th cross-interrogatory :

State whether or not there is any well defined course of treatment laid down in your medical books, or understood among physicians in such cases as the one referred to in exhibit A, by J. M. Fort, and please state by what rule you are governed.

LONG & BONNER,  
Attorneys for Defendant.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

I, S. W. Williams, clerk of the district court of Lamar

county, do hereby certify that the foregoing is a true copy of the original interrogatories, now on file in my office, in the above-entitled cause.

Given under my hand and official seal, at  
Paris, Texas, on this the fifteenth day of  
[SEAL.] December, A. D. 1877.

S. W. WILLIAMS,  
District Clerk,  
Lamar Co., Tex.

Commission attached.

J. M. FORT            )  
                  vs.        )  
R. PETERSON.        )

Suit pending in the district court of Lamar county.

Answers and depositions of David W. Yandell, M.D., of Louisville, county of Jefferson, state of Kentucky, to the accompanying interrogatories propounded to him in the above-entitled cause, taken before Harry Stucky, a commissioner for Texas, this 19th day of January, 1878, in accompanying commission.

ANSWERS TO INTERROGATORIES.

Answers of the witness, David W. Yandell, to plaintiff's direct interrogatories:

1st Answer to interrogatory:

My name is David W. Yandell; am 50 years of age; reside in Louisville, Kentucky; have been a doctor of medicine for the past 30 years.

2d Ans. to int:

I am professor of the science and art of surgery and clinical surgery in the University of Louisville, and have held that and other chairs in the same institution for 20

years past; have been president of the American Medical Association, and have held many other offices of honor in my profession.

3d Ans. to int :

Have carefully examined exhibit A, and believe the calomel and rhubarb were called for in the case, and should have done good; but medicines by no means always do what is expected of them; they certainly did no harm.

4th Ans. to int :

Chemists say that calomel, when introduced into the stomach, there, meets with the chlorides contained in the gastric juice, and is, to a minute extent, converted into the bi-chloride of mercury (or corrosive sublimate); this change, however, is claimed by no one, either chemist or physician, to be in a degree sufficient to produce even unpleasant, much less poisonous, effects. A single dose of calomel, after undergoing the change—if it actually does, many physicians denying it, to which I have alluded—produces ordinarily a simple purgative.

Not one single symptom in the case of Charles D. Peterson, is due to the effects of the mercury or calomel administered. Convulsions came on within an hour after mercury and rhubarb were taken. Neither calomel nor rhubarb produce convulsions.

5th Ans. to int :

• Can not say positively, but believe if any effect had been observed it would have been salutary; purging was indicated—calomel and rhubarb were good agents to accomplish it.

6th Ans. to int :

The practice was proper, and has the sanction of countless medical men the civilized world over.

7th Ans. to int :

My opinion is that the case was one of meningitis or in-

inflammation of the membranes of the brain, possibly tuberculous in character. If this view be correct, and I make no doubt of it, convulsions were due to the inflammation of the meninges or membranes of the brain.

8th Ans. to int :

I doubt whether any amount of experience would have enabled the physician, in such case as is described, to have predicted, with any degree of certainty, the advent of the convulsions or the existence of meningitis, on which they depended. The group of symptoms, as set forth in exhibit A, when the physician first saw the case, would not, I think, have led the most timid and apprehensive practitioner to anticipate convulsions, much less, to expect brain disease, even when the first convulsion, or the second, or the third occurred. It was by no means certain that actual lesion of the brain, or its membranes, was present. Such disease might have been feared, even suspected, nothing more. Hundreds of children have convulsions without having cerebral or brain disease. Such convulsions are known among medical men as *eclampsia infantum*.

9th Ans. to int :

Have answered this in my answer to interrogatory 8th; I will add, however, that convulsions in children more frequently depend upon causes outside than inside the skull. Undigested food, either in the stomach or intestines, teething, whooping-cough, malarial fever, and the several eruptive fevers, etc., are often causes of a degree of irritation or disturbance of the nervous system which explodes in convulsions, and convulsions may be prolonged, rapidly recurring and frequent, and yet not be due, in any sense of the word, to cerebral disease, properly so called.

10th Ans. to int :

Clearly, the lesion was in the brain or its appendages, and was either simple meningitis or tubercular meningitis.

That is simple inflammation of the membranes of the brain, or tubercular deposit in the membranes of the brain. I can not say which, but it was undoubtedly one or the other.

11th Ans. to int :

The eclampsia was sympathetic. That is, it denoted an appreciable lesion of the cerebro-spinal axis. Not being altogether certain whether the case was one of simple or one of tubercular meningitis, I can only answer the latter part of this interrogatory by saying that robust children seem to be equally prone with those that are delicate, to simple meningitis; while those children who are comparatively delicate and have large heads and naturally quick minds, are oftener subjects of tubercular diseases of the brain.

12th Ans. to int :

If the disease was simple meningitis, the prognosis in the case is very good—death being much the most frequent termination. Symptomatic convulsions are always very dangerous—nineteen cases of twenty-two cases died in the practice of two of the best physicians in America. When death does not end the scene, various diseases of the mind, defective vision and speech, paralysis, etc., frequently ensue. Of the few cases of symptomatic convulsions I have seen recover, I have known but one to recover perfectly. Some serious trouble, either of the mind or body, or of both, was left.

13th Ans. to int :

Can not say further than that the several eruptive fevers in children are often ushered in by convulsions.

14th Ans. to int :

Authors are very generally agreed that, in centric or symptomatic eclampsia, such as this case was, the treat-

ment is eminently active—consisting of blood letting, mercury blisters, ice, etc. In tubercular meningitis, the same line of treatment, omitting blood-letting, is the common treatment. The name usually applied to treatment, such as the foregoing, is antiphlogistic. The antiphlogistic treatment embraces blood-letting, general and local emetics, purgative diuretics, diaphoretics, water in its several forms, as ice cold water, hot water, etc., etc.; arterial sedatives or veratrum viride, aconita, etc., etc.

15th Ans. to int :

Think the treatment pursued, in the case alluded to, was the usual treatment—the treatment which general observation and experience has demonstrated to be the best.

16th Ans. to int :

The treatment was, in my opinion, judicious—it was more—it was active, proper and persistently followed up, as it should have been—it was the treatment which, in the main, is that pursued by the best practitioners in America, England, France and Germany. The same may be said of the practice followed by the two physicians, after the convulsions had ceased.

17th Ans. to int :

The application of the cold water to the head, under the circumstances named, has the almost uniform sanction of the leading medical men everywhere. The manner in which the cold was applied, was the usual one—it was altogether proper. The effect of ice applied to the head is to lessen the flow of the blood to the parts, lower the temperature, moderate the pulse, and to diminish restlessness, while it often promotes sleep and allays the convulsions—in a word, it is the most valuable means of subduing inflammation. The effect of cold affusions, or irrigation of

the head, is the same as follows the use of ice, except that it is neither so continuous nor so powerful. I think the application of ice the better of the two methods, and superior, indeed, to any mode of using cold to the head. My reasons for thinking so, is that the ice, when confined in rubber bags or bladders, is more convenient of application, and require to be renewed less frequently, and is a more powerful antiphlogistic.

The rule laid down by standard medical authorities, as you call them, is quite what I have stated, and very much as I have put it, cold applications as ice or otherwise, should be continued so long as they seem to be good, or so long as the violence of inflammatory symptoms continue—no time can be set; I have used ice and ice water and a rubber coil filled with ice water, continually for days. Standard authorities advise the same.

18th Ans. to int :

I should regard the exhibition of chloral, in such cases, with great favor.

19th Ans. to int :

I should have no regard for it whatever. It would, in my opinion, be utterly worthless.

D. W. YANDELL, M. D.

CROSS-EXAMINATION.

Answers of said witness to the defendant's cross-interrogatories.

1st Ans. to cross-int :

My treatment would have been that pursued by Dr. Fort.

2d Ans. to cross-int :

My opinion is based, of course, upon the correctness of the diagnosis. A slight change or variation in the same would produce no material change in my plan of treatment, in such a case as is described in exhibit A.

3d Ans. to cross-int :

Yes ; I have given hydrate of chloral to children during every period of childhood, under the circumstances in which it is commonly used, in doses of from 1 to 60 grains, for a variety of diseases, among them puerperal mania, puerperal convulsions, parturition, sleeplessness, chorea, delirium tremens, typhoid fever, neuralgia, rheumatism, and in many other diseases in which a hypnotic is indicated.

Chloral acts as a sedative to the nervous centres, and secondarily, to the heart. Its effects are comprehended in this statement. Chloral is composed of  $C_2HCl_3O$  ; strictly speaking, it is not a poison, yet, like most other powerful medicines, as opium, for instance, in very large doses it may produce death. It occasionally produces delirium, but I am not aware that it ever produced convulsions. I think, in a large majority of cases, having the history of the case before me, I could discriminate between the convulsions alluded to.

4th Ans. to cross-int :

All this testimony has been given under oath, and I have spoken only to the facts before me.

5th Ans. to cross int :

Have already cited numerous authorities in answer to interrogatories by defendant, but repeat here, that there is a well understood and well defined treatment in such cases. I am governed by the rules of common sense, and the expe-

rience of more than 30 years, and a pretty fair acquaintance with the literature of my profession.

D. W. YANDELL, M.D.

Sworn to and subscribed before me by D.  
W. Yandell, this 19th of day of January,  
1878.

[SEAL.]

HARRY STUCKY,  
Commissioner for Texas,  
Louisville, Kentucky.

STATE OF KENTUCKY, }  
COUNTY OF JEFFERSON, } SCT:  
CITY OF LOUISVILLE. }

I, Harry Stucky, a commissioner for the state of Texas, in and for the county aforesaid, do hereby certify that the foregoing answers to the direct and cross interrogatories of David W. Yandell, the witness named in the said interrogatories and the annexed commission, were made before me, and were sworn to and subscribed before me by David W. Yandell, at my office in Louisville, Kentucky, on this the 19th day of January, A. D. 1878.

In testimony of which I have set my hand  
and affixed my seal at my office in Louis-  
ville, Kentucky, the day and date above.

[SEAL.]

HARRY STUCKY  
Commissioner for Texas,  
Louisville, Kentucky.

THOS. D. WOOTEN, M.D.

STATE OF TEXAS, }  
 COUNTY OF LAMAR. }

In the district court, spring term, 1877.

J. M. FORT }  
 vs. }  
 R. PETERSON. }

RICHARD PETERSON, Esq.:

You will take notice that five days after the service hereof, we will apply to S. W. Williams, clerk of the district court, for a commission to take the deposition of Thomas D. Wooten, M.D., a resident of the city of Austin, state of Texas, in response to the accompanying interrogatories, his answers thereto to be used by plaintiff as testimony at the trial of the above entitled cause, now pending in the district court of Lamar county, Texas.

MAXEY, LIGHTFOOT & GILL,  
 WRIGHT & McDONALD,  
 Attorneys for Plaintiff.

INTERROGATORIES.

Interrogatories to be propounded to plaintiff's witness,  
 Thomas D. Wooten, M.D., of Austin, Texas.

1st interrogatory :

Please state your name, age, and place of residence, and occupation or profession. If you say you are a member of any of the professions, please state how long you have so been.

2d interrogatory :

It, in answer to preceeding interrogatory 1st, you state you are a physician, please examine carefully and closely

the annexed exhibit, marked exhibit A, 2d interrogatory. If you have so examined it, please so state. If you have so examined said exhibit containing a statement of the case and its treatment of Charles D. Peterson, child of Richard Peterson, then please state what influence, in your opinion, was exerted by the dose of calomel and rhubarb administered by the physician attending, at his first visit to the case.

3d interrogatory :

Please state when mercury (calomel) is introduced into the human stomach and comes in contact with the gastric juice, what chemical change is produced by such contact in the composition of the mercury. (calomel)? and state further, what irritating or poisonous effect, if any, would the mercury (calomel), after undergoing such chemical change, have or produce upon the system? and state further, what symptoms, if any, occurring in the case of Charles D. Peterson, as shown in said exhibit, were, in your opinion as a physician, the effect of mercury (calomel) introduced into the stomach of Charles D. Peterson?

4th interrogatory :

Had the cathartic (calomel and rhubarb) acted upon the bowels in said case prior to the invasion of the convulsions, what effect, in regard to the convulsions, would, in your opinion as a physician, have been produced by such action?

5th interrogatory :

Under the circumstances of the case as reported in said exhibit, what is your opinion, as a physician, of the practice pursued in administering the cathartic?

6th interrogatory :

After, as shown by said exhibit, the bowels had been acted upon by the enema and the stomach evacuated by the emetic, and no undigested food or other irritating sub-

stance discharged, and the convulsions continuing after this, and other treatment as set forth in said exhibit, and after it was ascertained that the child had not been exposed to the poison of any of the eruptive fevers, and as the child was not of an age to be teething, what is your opinion, as a physician, as to the cause of the convulsions?

7th interrogatory :

If, in answer to the foregoing interrogatory (6th), you state that in your opinion, as a physician, the convulsions in said case were produced by a disease of the brain or its membranes, and if further, as is shown by said exhibit, the attending physician saw the case for the first time, at about 2 o'clock p. m., and at that time there were no prodromic symptoms of cerebral disease, save fever, and the convulsions coming on in from half an hour to one hour thereafter, then please state with what degree of certainty in your opinion, as a physician, could the character of the disease of the brain or its membranes, producing such convulsions, be determined? Please state further what, in your opinion as a physician, under the circumstances of the case as shown in said exhibit, was the character of the convulsions in said case? State by what name or names such character of convulsions are known by the medical profession?

8th interrogatory :

Under all the circumstances of the case, as shown by said exhibit, attendant upon the invasion of the convulsions, please state fully with what degree of certainty could a diagnosis be made of the acute disease of the brain or its membranes, producing such convulsions?

9th interrogatory :

What lesion of the brain, if any, was, in your opinion as a physician, indicated by the train of symptoms enumerated in said exhibit, as existing some three or four hours after the invasion of the convulsions?

10th interrogatory :

If, in answer to interrogatory 7th, you state that, in your opinion, the convulsions in this case, reported in said exhibit, were centric or symptomatic, then please state what peculiar organizations among children are most liable to this character of disease ?

11th interrogatory :

Please state what is the prognosis of the disease enquired of in the preceding interrogatories ? and when not fatal, please state what condition, physically and mentally, does this character of disease leave the patient.

12th interrogatory :

Please state in regard to the liability of children to convulsions in attacks of eruptive fevers, such as scarlatina, small-pox, etc.

13th interrogatory :

If, in answer to interrogatory 7th, you have stated that this was a case of centric or symptomatic convulsions, will you please state what course of treatment, in such cases, is advised or laid down by the standard medical authorities to be pursued. Please state the name or designation applied by the medical profession to such course of treatment. If you say such course of treatment is antiphlogistic, then please state fully what remedies are embraced in and constitute this plan of treatment.

14th interrogatory :

Under the circumstances and history of the case, as described in said exhibit, what is your opinion, as a physician, of the course of treatment pursued therein ? State fully.

15th interrogatory :

Please state your opinion, as a physician, of the treatment pursued during the continuance of the convulsions, as shown in said exhibit. And state further how such

plan of treatment so shown, agrees with the plan of treatment in such cases laid down in the standard medical authorities ; and state your opinion as a physician, as to the plan of treatment agreed upon and pursued by the attending physicians, after the cessation and during the non-existence of the convulsions through the night following their invasion.

16th interrogatory :

When a case presents the general symptoms, as shown in said exhibit, and the special symptoms of abnormal heat of the head, frequent livid flushings of the face and scalp, with great agitation of the patient, as evinced by the great rigidity of the muscles, chattering of the teeth, clenched hands, etc., please state your opinion, as a physician, of the practice pursued in making cold applications to the head, and of the manner in which said applications are made. State the effect produced by cold applications by ice to the head, and the effect of cold applications by the pouring of cold water, from any height, upon the head ; and state fully the difference, if any, in the effects produced by these two methods of making cold applications. And state which, in your opinion as a physician, is the best method of making cold applications in the acute cerebral diseases, such as are reported in said exhibit ; give your reason therefor, and state the rule laid down by the standard medical authorities on these points. Please state further how long such cold applications, in your opinion as a physician, should be continued. State the line of practice upon this point, enunciated by the standard medical authorities.

17th interrogatory :

In your opinion, as a physician, how would you regard the use of hydrate of chloral in the case reported in said exhibits, when undue excitation of the nervous system exists ?

18th interrogatory :

From your own knowledge of the science and art of medicine, how would you regard the opinion of anyone not a physician, as to the nature and character of the disease, such as is reported in said exhibit, and the proper remedies to be used, times and modes of administration, etc.?

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,  
Attorneys for Plaintiff.

EXHIBIT A, TO SECOND INTERROGATORY.

Report of the case of Charles D. Peterson, deceased, child of Richard Peterson, Esq. :

CASE.

Robust male child, aged four (4) years, short neck, large head, red hair, florid complexion, nervous sanguine temperament.

Was called to see this case about 2 o'clock p. m., July 30th, 1876. The symptoms present were fever, but not of a high grade; tongue covered with a light brown coat; pulse accelerated, but regular respiration, slightly hurried, but not more than usual with children with fever; bowels not having moved since the day before; expression of the countenance natural; stomach quiet; no abnormal heat of the head or other symptoms indicating cerebral disturbance. His mother informed me that he had considerable fever during the night previous, and that there was a remission during the early part of the morning; that he got up, was dressed, ate his breakfast, and played with his toys. She further informed me that he had eaten freely of watermelon the evening before, and that she had given him, during the night and morning, several powders (the exact

number not remembered). The powders were made after the following formula :

R -Calomel.....grs. v.  
 Dover powder.....grs. v.  
 Sub-nit. bismuth.....grs. x.  
 Making 10 powders, 1 to be given every 2 or 3 hours.

This little child had frequent attacks of disordered bowels, sometimes accompanied with fever, and these powders given as above directed, generally relieved him. His mother had them on hand, and gave them on her own accord. I had prepared the powders for her (at her request) to take with her while on a centennial trip, from which they had returned some two or three weeks previous. I had treated this child in repeated attacks of remittent fever, and from symptoms present, taken in connection with the history of the case, as given by his mother, at my first visit, at about 2 o'clock p. m., July 30th, 1876, I concluded that the child was suffering from a mild attack of billious remittent fever, and administered a cathartic dose, of calomel and rhubarb, some four or five grains each. In about an hour or an hour and a half I was called hastily to see the case, and upon my arrival found the child in a severe convulsion. I at once called for warm water in which to bathe him; it having been brought in a vessel too small to give a general bath, I used it for a pediluvy, and at the same time poured cold water upon the head. There having been no visible effects from the cathartic, neither vomiting or purging, I administered an enema of warm soap-suds which acted promptly and freely. The convulsion passed off, having lasted some fifteen or twenty minutes, but in a very short time was followed by another equally as severe and protracted. I again used the warm pediluvy, having made the addition of mustard thereto, and renewed the pouring of cold water upon the head. As soon as this second convulsion subsided I administered an emetic of ipecac, which acted well—producing prompt and free emesis. The con-

vulsions continuing and becoming, perhaps, even more severe and protracted, notwithstanding the free action of the bowels and the thorough action of the emetic, and as no irritating substance or undigested food had been passed either from the bowels or ejected from the stomach, and learning from enquiry of his parents, that the child had not been exposed to the contagion of any of the eruptive fevers, I expressed the opinion to the mother and others present that the convulsions were, in my opinion, produced by disease of the brain. I was of the opinion that I had a case of symptomatic or centric eclampsia to contend with. By the application of powdered ice wrapped in a napkin to the head, friction to the extremities and cautious inhalations of chloroform, the convulsions ceased, having lasted, as it seemed to me, an hour and a half or two hours. After the cessation of the convulsions, or some two hours after their invasion, I regarded the case as almost a hopeless one, from the lesion of the brain then existing, as was evidenced by the following train of symptoms then present, to wit: The countenance of the child was void of expression, the pupils widely dilated and insensible to the stimulus of light, respiration hurried, pulse irregular, face and scalp flushed, hands clenched, grinding and chattering of the teeth, stupor, etc., all evincing a very great excitation of the nervous centres. I called in Dr. Gibson, the nearest physician, to see the case with me, who, after an examination, and on learning the history of the case, and the treatment which had been pursued up to that time, fully agreed with me in opinion as to the character of the convulsions, and from the condition and appearance of the child at that time, we gave it as our opinion that the child would not survive the night. We communicated to the parents of the child this opinion. Just before the arrival of Dr. G., I administered hypodermically about one-half grain of sulphate of quinine, and to allay excitation of the nervous centres and to relieve the convulsed condition in

which the child remained, I gave two or three grains of hydrate of chloral. Dr. Gibson advised a repetition of quinine—the same quantity to be administered as before, in the course of two and a half or three hours from the time the first was given, which was done. We agreed to pursue the following course of treatment through the night, (if the child would live so long), unless circumstances indicated a change necessary (Dr. Fört to remain with the case): Cold applications to the head to be continued by the judicious use of ice, frequent mustard foot baths, the body to be wrapped in flannel and kept warm, cloths wrung out of warm water to be applied to the chest and abdomen, quiet enjoined, nervous agitation to be controlled by the administration of an occasional dose of hydrate of chloral; also the following:

R—Calomel.....	grs. iij.
Dover powder.....	grs. ij.
Sulph. Quinine .....	grs. vj.
Sub-nit. Bismuth.....	grs. iij.

Make 4 powders, 1 to be given every 3 hours.

I remained with the case during the night, and watched its condition closely. Whenever from a neglect of or a withdrawal of the cold applications, the head would become too hot, the child would become restless, and marked indications of a return of the convulsions would present themselves. The cold application to the head evidently exerted a very happy sedative influence, as was shown by the calming and quieting effects upon the patient. The treatment as determined upon was continued during the night. For an hour or two, during the morning, July 31st, 1876, the child was more calm and rational—could understand what was said to him, and answered correctly some questions asked him. Dr. Gibson saw the case with me at about 8 o'clock a. m., and although the child seemed better, we were satisfied that it was delusive, and would

last but a short time, as there was no relief or amelioration in the cerebral symptoms. These symptoms I recapitulate : abnormal heat of the head, frequent livid flushings of the face and scalp, with each flush there was a great increase of agitation, hurried respiration, pupils widely dilated, and insensible to the stimulus of light, blindness, pulse irregular, extreme agitation, clenched hands, etc. We shaved the back of his head as far up as the top of the ears, and applied a blister, having first made several applications of the tincture of iodine, letting the blister extend down upon the nape of the neck. The treatment pursued during the night was continued during the day, except that we increased the quantity of calomel one grain every three hours, with a view of promoting further action of the bowels. The cold applications to the head were kept up during the day, July 31st, by means of two rubber-cloth bags, each holding not more than two ounces of powdered ice ; the bags not being permitted to remain long in one position against the scalp ; frequent mustard foot-baths ; the extremities to be rubbed with dry mustard after bathing ; the body to be kept warm by means of shawls, blankets, etc. ; cloths wrung out of warm water to be applied to the chest and abdomen ; alterative doses of calomel and Dover powders, quinine and bismuth, with an increase of calomel as before stated, continued every three hours ; hydrate of chloral to be used, as seemed indicated ; sometime during the forenoon a mustard plaster was applied the full length of the spine (the exact time not remembered). As the day advanced the cerebral symptoms increased in severity ; the flushing became more livid and accompanied by greater agitation ; the fingers and thumbs were forcibly drawn in the palms of the hands ; if paralysis existed it was slight and of the left side ; there was a higher degree of temperature and a fuller and more resisting pulse on the left than on the right side ; the eyes retained their normal axis. In spite of our best efforts our little patient died, about 8

o'clock p. m., July 31st, some 26 or 28 hours after the invasion of the convulsions.

J. M. FORT, M.D.

I have carefully considered the foregoing statement in regard to R. Peterson's child, and fully concur therewith. As regards the condition of the child from the first time I saw it, and receiving Dr. Fort's statement of the case, as it was prior to my first visit, I find the above report to be correct.

D. H. GIBSON, M.D.

Service of copy accepted and agreed, that commission issue upon the original interrogatories, reserving all legal exceptions.

R. PETERSON, Defendant.

#### CROSS-EXAMINATION.

Cross-interrogatories to plaintiff's witness on plaintiff's direct interrogatories to exhibit A.

1st. cross-interrogatory :

If you state, in reply to plaintiff's 2d direct-interrogatory, that calomel and rhubarb was the proper remedy, under the circumstances named in his exhibit A, give reasons in full, and standard book authority. State whether or not said dose of calomel and rhubarb would have been the right medicine to give to a child of his temperament, if he had diarrhœa for two or three days previous, and a full evacuation of the bowels about midnight of the 29th of July.

2d cross interrogatory :

If, in answer to plaintiff's direct interrogatory 3d, please state whether or not your answer in such a case may not be purely a speculative one. If you say it is not, give reasons in full, book, page, etc.

## 3d cross-interrogatory :

If, in answer to plaintiff's 4th and 5th direct interrogatories, you say the cathartic was the proper remedy, state whether or not if, under the circumstances set forth in defendant's statement, marked exhibit B, and attached to these cross-interrogatories, the administration of said cathartic was not bad practice—that is to say, taking note that the child had diarrhœa and fever, and was of a nervous sanguine temperament.

## 4th cross-interrogatory :

If, in answer to plaintiff's interrogatory 6th, you state that the convulsions were the result of disease of the brain, state reasons in full—book authority, volume and page.

## 5th cross-interrogatory :

If, in answer to plaintiff's direct interrogatory 7th, you state that the convulsions were not the result of reflex action, please state names in full—book, volume and page.

## 6th cross-interrogatory :

If, in answer to plaintiff's direct interrogatory 8th, you state that the case was acute disease of the brain or its membranes, please state reasons in full—standard book authority, book, volume and page. Please state here what derangement, either functional or organic, is it, that leads most frequently to convulsions in children? State authority, as before directed.

## 7th cross-interrogatory :

If, in response to plaintiff's direct interrogatory 10th, you say the convulsions were centric, please give reasons in full—standard medical authority, book, volume and page.

## 8th cross-interrogatory :

Please state here, if you answer plaintiff's direct interrogatory 11th, whether or not convulsions are not a very common malady among children of Charles D. Peterson's

age? and what per cent. of children of his age die from convulsions? Give standard medical authority, book, page, etc.

9th cross-interrogatory :

If, in answer to direct interrogatory 13th, you say ice is a proper remedy, under the circumstances, detailed by plaintiff in his exhibit A, you will now, please examine defendant's exhibit B, and then say if, under the circumstances therein described, manner, form and application, ice was the right remedy, and whether or not it was judiciously made use of by the attending physician. State also, here, how long a child's head can be continuously embeded in four bags or rags of ice, each containing from eight to twelve ounces of powdered ice, without suspending the functions of the brain?

10th cross-interrogatory :

If you answer to direct interrogatory 14th, that the plan of treatment pursued by the physicians was correct, please state whether or not your opinion does not depend altogether upon the correctness of the diagnosis of the case as set forth in plaintiff's exhibit A.

11th cross-interrogatory :

If you answer plaintiff's direct interrogatory 16th, say whether or not the symptoms enumerated therein, may not have been the result of the combined effects of the calomel and rhubarb, the water, the ipecac, the ice and the chloral. If you say these symptoms could not have been produced by these remedies, state your reasons in full, and if any medical authority is relied on, give book and page. State also, what quantity of ice, the number of ounces, the number of parcels, and the manner and form for applying ice to the head of a child of his age, as it is laid down in the books. State standard medical authority.

## 12th cross-interrogatory :

State whether or not it is proper to put two parcels of ice to a child's head, under the circumstances, at one time ; state if it is proper to put four parcels to the head at one time ; state how long the ice ought to be left without shifting ; state if there is room on a baby's head to shift two parcels ; state if there is room to shift four parcels. If you answer that it is proper to put even two parcels of ice to the child's head at a time, and that it is proper to shift the parcels on the head, please make a diagram on paper and attach it to your answers, showing how this shifting process can be done ; also showing how the problem of four bags or rags of ice applied to the child's head simultaneously, may be solved, and not apply the ice directly to the same parts of the head.

## 13th cross-interrogatory :

Please state your opinion as to whether or not it is usual in cases like the present, to continue cold applications to the child's head when the feet and hands are cold. If you say it is usual and good practice, state how long after said indications set in—that is, to say, after the hands and feet have become cold and incapable of being effected by external applications—should even two bags of ice to the head be continued ? If you say the cold applications should be continued at all, under the circumstances, give book, volume and page of standard medical authority.

## 14th cross-interrogatory :

Please state whether or not it is proper to keep even two bags of ice to the head hours after the pulse has gone down below the normal standard—that is, to say, to keep ice to the head ten or twelve hours after the pulse has began and continues to diminish in rapidity and volume until the beat becomes imperceptible to the touch, first in the right arm, and then until it disappears altogether, and until

death ensues. If you say this is the practice, give standard medical authority, book and page.

15th cross-interrogatory :

Ought not all applications of cold to the head be promptly discontinued when the pulse is small and feeble, or below the normal standard, and when the feet and hands are so cold that they can not be warmed? Please answer in full.

16th cross-interrogatory :

If, in answer to plaintiff's interrogatory 17th, you say that chloral is the proper remedy in such cases, please give train of symptoms in full, which would be likely to follow the free and frequent administration of chloral to a child, under the circumstances? Give standard medical authority, volume and page.

17th cross-interrogatory :

If, in answer to direct interrogatory 18th, you say, from your knowledge of the art and science of medicine, you have not a high regard for the opinion, etc., as there cited of persons, not doctors, please explain yourself fully. Please state whether or not you do not always enquire of the parents whose children you may be called to treat for any ailment whatever, as to the habits of the child, the symptoms presented, and what may have been done for it before your arrival. In other words, do you not usually place great reliance on this character of information?

R. PETERSON, Defendant.

## EXHIBIT B.

ANNEXED TO DEFENDANT'S CROSS-INTERROGATORIES.

My son, Charles Darwin Peterson, now deceased, died July 31st, 1876, at 8 o'clock p. m. Was, at the time of his

death, 4 years, two months and 27 days old. Was a hearty, robust child, of rather blonde complexion, and of sanguine nervous temperament.

On the 28th and 29th days of July, 1876, the child had slight diarrhœa, caused by eating fruit and watermelon. He ate the watermelon on the morning of the 29th. About midday I noticed that he had some fever, but neither diarrhœa or fever interfered with his play. Late in the evening of the 29th day of July, his mother gave him a small dose of calomel, bismuth and Dover powders, which had been fixed up for him some months previously, by Dr. Fort. One or two more of these powders were given at intervals of two or three hours during the night of the 29th. He was restless during the night, and about midnight had a very copious discharge from the bowels. In the morning he got up, apparently well, and went out as usual, to play. At breakfast he ate hearty, but the powders aforesaid being continued at intervals, and the fever again arising, he came in the house and played on the floor. The pallet was made down for him; he slept some. About half past 2 o'clock, and while the child was asleep, Dr. Fort was called over to see him. He felt the child's pulse, looked at his tongue, and said he had not much fever; that he had seen him with a much higher one; and after enquiring the previous condition of the child, and learning that we had been giving him the powders aforesaid, and that the child had had a large evacuation from his bowels at midnight, he said he would give us something to affect his bowels. He then gave me a paper containing about 15 or 16 grains of calomel and rhubarb, and requested me to give it to him immediately. About thirty minutes after this dose had been swallowed by the child he was taken immediately with convulsions.

Dr. Fort was again called. He came, and called for cold water, and began pouring pitcherful after pitcherful of

cold well water and ice water on the child's head, to the extent of two or more bucketsful. His feet were bathed in hot water also. The spasm lasted about 30 minutes at the farthest. While one of the fits were on Dr. Fort said to us, in a very excited manner: "Where have you been with this child? He must have contracted some dreadful disease while you were gone." Meaning while we were all gone to the Centennial exhibition. Let it be noted that we had been back three weeks, and the child, with the exception of the diarrhœa aforesaid, had never been heartier in his life. At another time the doctor said in the same excited manner: "He has got congestion." About the close of the last spasm a tumberful of ipecac mixture was given him. The child was then put down in his crib with wet cloths on his head and his feet bathed in warm water. Shortly after this three rags filled with pounded ice was applied to the head. One rag holding eight ounces of pounded ice was put immediately under his head, between his head and the pillow, and two smaller parcels of ice in rags, say about six ounces each, were applied on either side of his head. The emetic produced only the very slightest effect—the child only vomiting two or three table-spoonsful, and the ejected substance was nothing more than a portion of the emetic, mingled with frothy saliva. The child's feet were bathed again; chloral hydrate was freely administered—the doctor using up what he had on hand, and sending to the drug store for more. Some six or eight teaspoonful doses of this chloral drug were given during the twenty-eight hours of the child's illness. Quinine was injected into each arm and administered at the mouth every two hours until an hour before death. After the convulsions ceased the child passed into a quiet sleep, and Dr. Fort remarked to me that this was the result of the ice. After he had been on the ice pillow the child's pulse went down to forty beats in a minute, and was quite feeble; there was not the slightest evidence of fever; re-

spiration was scarcely perceptible, and a very low degree of temperature prevailed, especially in the feet and hands. The features were contracted and the skin pale. At this juncture Dr. Fort said the child was in great danger; that he had no pulse at all, hardly, and that he would die before midnight.

A short time after this, Dr. Gibson was brought in by Dr. Fort, and after he had examined the child, he took me to one side and said: "Do you know that Darwin is very sick and in great danger? His pulse is down to forty, and without some wonderful revulsion of nature he can not last until midnight." About 11 p. m. Dr. Fort laid down on a bed in the sick-room, and slept until morning—myself, wife, and some kind neighbor ladies sitting up and keeping ice to the child's head all night, as directed by the doctor. The child rested quite easy, and slept nearly all the time, except when he was aroused to take the prescribed two-hour dose of quinine.

After the doctor lay down, and without consulting him, the ice-pillow was discontinued, because the lumps seemed to be uncomfortable to the little fellow's head. Two napkins filled with ice, each holding not less than six ounces, were kept to his head the whole night without intermission—the ice melting, and the ice-water running down under his back and entire body until the mattress was saturated.

On the following morning, between 5 and 6, o'clock, the child's pulse was at the normal standard, his hands warm, and his feet readily affected by warm applications, and the child quite rational, and looking well out of his eyes. A new supply of ice was now procured—the supply being rather limited heretofore, and the quantity applied to the child's head necessarily economized. This was about 8 or 9 a. m. The doctor now ordered some indiarubber bags to be prepared, so that the ice might be pounded finer, and thus be made to spread out over more head surface. Two

bags were accordingly made, each of which, when tied, would hold 12 ounces of water, by actual measurement. Both of these bags were filled with pounded ice, and applied to the child's head, together with two rags holding about the same quantity. These four parcels of pounded ice, that is to say, between two and a-half or three pounds, were continuously applied to the child's head for the space of about 12 hours.

They had not been thus applied but a short time before there was a marked change for the worse in the aspect of the patient. He screamed out and cried: "Papa, mamma, Charity, take me!" He reached up his little hands and caught hold of my whiskers and tried to pull himself up by them, whereupon Dr. Fort had recourse to the chloral bottle, and the child was dosed with it, as before stated. An hour or two before this, perhaps, the neighbor ladies in attendance suggested that the wet clothes be taken off the child, and the doctor consented. All his wet (but warm, steaming) clothes were taken off, and cold, dry ones put on; which appeared to induce bad effects. His hands and feet were rubbed, hot irons were put to his feet, hot cloths rung out in warm water were applied to his stomach, his spine was blistered, and the back of his head shaved and blistered. About 1 or 2 p. m. the child appeared as if he was suffering with extreme cold. His head was cold to the touch, and the doctor was informed thereof. He replied: "That is nothing; his brain is hot on the inside." His pulse sank rapidly, his feet and hands were as cold as ice itself, and all efforts to warm them abortive. The blood settled around his finger nails, and gathered beneath his eyes; his face was livid; the whole surface of his body presented a purple appearance; his ears were turning dark, and the pulse scarcely perceptible in the right arm. These symptoms were pointed out to the doctor. He answered: "The child is nervous; these are the symptoms of the disease," and immediately went to the mantel-piece, poured

out some more chloral, and gave it to the child. Shortly afterwards he said the ice in the bags was not fine enough, and went himself, took a hatchet, pounded up a lot of ice, refilled and re-applied the two bags, so, as he said, the ice might spread out over more surface of the head. The two rags of ice were not disturbed. The ice, in this condition—that is to say, as I have stated it throughout—was continuously kept to the baby's head 26 or 27 consecutive hours, and was not withdrawn one hour during that time. The four parcels of ice remained to the child's head until he breathed his last breath.

In a few hours after death the child's face presented a very swollen appearance.

R. PETERSON, Defendant.

#### CROSS-EXAMINATION.

Cross-interrogatories by defendant, to T. D. Wooten, M.D., witness for plaintiff.

1st cross-interrogatory :

Please carefully examine exhibit B, attached to these cross-interrogatories, and state whether or not you have so read exhibit A.

2d cross-interrogatory :

Please state whether or not you ever gave 15 or 16 grains of calomel and rhubarb to a child 4 years old. State whether such a dose was proper under the circumstances set forth in said exhibit B. State whether, under the circumstances, calomel and rhubarb was the proper remedy. In any event, state your reason in full, and the standard book authorities that you rely on for such proceeding. Be particular and state the name of the author of standard authority, work, volume and page.

3d cross-interrogatory :

State now, if you please, what was the matter with

Charles Darwin Peterson—whether the convulsions incident to childhood were induced from indigestion, worms, stomach irritation, etc., or whether, in your opinion, the convulsions were caused by disease of the brain. State your reasons in full and give standard authorities that you may rely on for your opinion—book, volume and page.

4th cross-interrogatory :

Please refer to exhibit B, of these cross-interrogatories, and give your opinion as to the ipecac. Was it a proper medicine under the circumstances? You will note that it was on Saturday morning, July 29th, 1876, about 9 or 10 o'clock, that the child ate the watermelon aforesaid, and on that day, as well as the preceeding, he had slight diarrhœa; and that about noon of that day he had slight fever; and that at night, about midnight, he had a copious action of the bowels. If you say it was proper, say whether or not the quantity was excessive. You will note that the child, according to exhibit B, vomited but slightly. Was not the prior application of cold well-water and ice-water poured on the head, calculated to so depress the patient so as to induce a condition unfavorable to the action of the emetic? Remember that the child was, shortly after the administration of the emetic, put down in his crib on an ice-pillow, and ice applied in rags to both sides of his head. Was not this course calculated to prevent vomiting, and require the ipecac to pass off through the bowels? Would this not produce still further depression of the vital forces of the system?

5th cross-interrogatory :

If you state that the convulsions showed inflammation of the brain, please state whether or not hydrate of chloral, as administered by the doctor, as described in exhibit B, was an appropriate remedy. Please state if it was a proper drug to give a child under the circumstances set forth

in said exhibit B. State if this is your practice in like cases. State your reasons in full. State the effect produced by this drug on the brain, and the symptoms exhibited by a four-year-old child under repeated doses of it. State what standard writers you rely on—work, volume and page.

6th cross-interrogatory :

Please state your opinion as to whether ice is the proper remedy in such cases, under the circumstances set forth in exhibit B. State whether or not the quantity of ice set forth in exhibit B, was proper under the circumstances, or, in any event, to be applied to the head of a four-year-old child. State your reasons—standard book authorities, volume, page, etc.

7th cross-interrogatory :

Please state your opinion as to the propriety of the hypodermic administration of quinine to a child, under all the circumstances. State your opinion as to the two-hour doses of quinine.

8th cross-interrogatory :

Please state whether or not, in your opinion, it was not the excessive use of ice on the 30th and 31st day of July, as applied to the head of the child, which produced his death. Please state, in your opinion, whether the child was not literally frozen to death.

9th cross-interrogatory :

Please state if death is not frequently induced by the use of hydrate of chloral.

10th cross-interrogatory :

Please state the symptoms exhibited while dying from excessive cold.

11th cross-interrogatory :

Please state what aspect the face of the corpse would

present after being frozen to death by the use of ice applied to the head.

R. PETERSON, Defendant.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

I, S. W. Williams, clerk of the district court of Lamar county, do hereby certify that the foregoing is a true copy of the original interrogatories, now on file in my office, in the above-entitled cause.

Given under my hand and official seal, at  
Paris, Texas, on this the thirteenth day of  
[SEAL.] March, A. D. 1877.

S. W. WILLIAMS,  
District Clerk,  
Lamar Co., Tex.

S. F. ALSTON,  
Deputy Clerk.

Commission attached.

J. M. FORT }  
vs. }  
R. PETERSON. }

Suit pending in the district court of Lamar Co., Texas.

Answers and depositions of Thomas D. Wooten, M.D., who resides in Travis county, state of Texas, to the accompanying interrogatories propounded to him in the above-entitled cause, taken before James Neill, J. P., and ex-officio notary public in and for said county of Travis, state of Texas, in accordance with the accompanying commission.

## ANSWERS TO INTERROGATORIES.

Answers of the witness, Thomas D. Wooten, to plaintiff's direct interrogatories :

1st Answer to interrogatory:

My name is Thos D. Wooten ; am 48 years of age ; reside in Austin, Texas ; physician and surgeon by profession ; graduated at the university of Louisville, Kentucky, in February, 1853 ; have been engaged in the practice of medicine since that date, now 24 years.

2d Ans. to int :

I have carefully read exhibit A giving an account of the last illness and treatment of R. Peterson's child. The dose of calomel and rhubarb was calculated to purge the child, and was a rational indication of treatment.

3d Ans. to int :

This interrogatory I am not prepared to answer. The chemical changes to which calomel is subjected to the human stomach, so far as I know, are not fully determined ; but it is a matter still of speculation and somewhat of conjecture, and is influenced, to some extent, by the contents of the stomach, aside from the normal secretions. When any of the chlorides are present, it has been claimed that the chloride may be converted into bi-chloride of mercury. Other parties, equally as competent to judge, have denied such conversion. Mercury, in a minute state of division, is absorbed into the circulation, both from the skin and mucous membranes, and produces certain effects and changes upon and in the tissues ; but to say what precise chemical change calomel undergoes in the stomach previous to absorption, I am not prepared to say. However, I know of no serious or poisonous effects that could have arisen from the dose exhibited in this case, as referred to, and there are no after symptoms developed in the case that point in any degree to the effects of mercury.

4th Ans. to int :

The effect would have been favorable to the child, in my opinion.

5th Ans. to int :

I think it was rational and proper treatment.

6th Ans. to int :

My conclusion would be, that the child's brain was involved, whether the cause was centric or con-centric in its origin.

7th Ans. to int :

Prodromic symptoms of symptomatic-eclampsia are not always present, but usually there are manifestations indicating their approach. Often, however, the convulsive seizure is sudden and without premonition of a decided character; and from the statements made in exhibit A, there were wanting, prior to the convulsions, any pathognomonic symptoms indicating brain trouble. Its true character, at the first visit, as referred to, could not have been determined upon with certainty. The character of convulsions indicated in exhibit A are called symptomatic-eclampsia, centric convulsions, etc., recognizing brain trouble as the cause.

8th Ans. to int :

The acute character of the disease could not have been determined upon, until such derangements of the functions of the brain were manifest, as indicated brain lesion, which it (exhibit A) does not reveal prior to the convulsions.

9th Ans. to int :

That of active congestion or acute inflammation, followed by effusion or extravasation. I could not state precisely at what period of time the congestion (which is always the initial step) passed into the inflammatory stage. The indications of treatment, however, are the same in both stages.

10th Ans. to int :

A nervous and excitable temperament predisposes to the disease. Plethora or its opposite state, anæmia, increases the liability to an attack.

11th Ans. to int :

Symptomatic-eclampsia is always serious. The occurrence of eclampsia, whatever, to cerebral diseases, renders the prognosis unfavorable. The convulsive attacks, themselves, when long, severe and protracted, often result in serious lesions of the brain, and may themselves, be a cause of death. When recovery does occur in this disease, the brain is often impaired in its functions, giving rise to impaired intellect, paralysis, or other ill effects.

12th Ans. to int :

It is often caused by two of the eruptive fevers; small-pox and scarlet fever in the initial stage, and may occur in the course of the latter disease.

13th Ans. to int :

Physicians are often called upon to treat eclampsia without being able to determine the cause—whether it be sympathetic or symptomatic. Fortunately, however, the immediate indications of treatment are very much the same in either case. The essential indication is to relieve the hyperæmic engorged condition of the brain and its membranes. This is attempted to be accomplished by revulsives, and such means as lessen the determination of blood to the brain. As early as practicable, the feet should be placed in hot water, or hot water and mustard, or when it can be obtained without delay, a general warm bath may be used instead, which is soothing to the nervous system, promotes muscular relaxation and acts as a derivation of blood from the brain; at the same time, cold applications should be made to the head until its temperature, which is usually heightened, is reduced. Cold may be applied by

cloths wrung out of cold water, or ice bags may be used. Cold, thus applied, acts promptly by causing contraction of the blood vessels of the brain and its membranes, thereby diminishing cerebral congestion, which tends to relieve one of the chief damages. A large portion of cases of this disease occurring to children, originates in the condition of the bowels. A purgative is advisable either in the form of an enema or a cathartic. In a robust child of two or three years, calomel is usually given, combined or not, with a more active purgative, as indications may seem. By the purgative the bowels are unloaded of any indigestible matters tending to irritate the same, and by its derivative effects, at the same time determines blood from the brain. When the stomach is suspected of being loaded with indigestible matters, an emetic is indicated both as an evacuant and for its relaxing effects as a nauseant. Local abstraction of blood by leeches or cups may be resorted to where the case is robust and the cerebral determination decided. To control the convulsions, chloroform is generally resorted to, and is regarded as both reliable and safe, when used cautiously. Hydrate of chloral is an invaluable agent in controlling the convulsions in this disease, and is in favor with the profession. Bromide of potassium is given also in this disease, to relieve the mobility and excitability of the nervous system and to diminish the activity of the cerebral circulation. Vesication is resorted to when effusion or exudation has occurred within the cranium. Mercury is thought to promote absorption and to lessen inflammatory products, and is used with a view to this end.

14th Ans. to int:

From the exhibit A made, I am of the opinion that the treatment was correct, and in the main, in accordance with the present views of the profession, in regard to the treatment of the disease.

15th Ans. to int :

Same as the last interrogatory 14th.

16th Ans. to int :

Cold applications to the head should be used for the purpose previously indicated in my answer to interrogatory 13th; and to the extent necessary to reduce any inordinate and abnormal heat that might be required to keep the temperature abated. The cold cloths or ice bags of rubber cloths was a proper way of applying cold. For continued use the ice bags are to be preferred, as they do not wet the bed of the patient. Pouring water upon the head from a height is objectionable, as it would frighten the child, but could be used with good effect during the convulsions. The frequency and character of the pulse not being noted in exhibit A, nor the temperature given, my judgment would be necessarily faulty in deciding to what extent and degree the cold applications to the head were admissible.

17th Ans. to int :

In my answer to interrogatory 13th, I have indicated my view in regard to hydrate of chloral as a remedy in this disease. The use as made in the exhibit was proper, in my judgment.

18th Ans. to int :

The judgment of the unprofessional mind in respect to disease and its proper treatment, is often much at fault, and can afford no sure guide to the judgment of a physician.

THOS. D. WOOTEN, M.D.

Sworn to and subscribed before me this  
28th day of April, A. D. 1878.

[SEAL.]

JAMES NEILL,

J. P. and Ex-officio Notary Pub.,

Travis County, Texas.

## CROSS-EXAMINATION.

Answers of Thomas D. Wooten, M.D., to cross-interrogatories propounded by defendant on plaintiff's direct interrogatories to exhibit A.

1st answer to cross-interrogatory :

If diarrhœa existed for two days previous, and a free evacuation at midnight, there was less indication for a cathartic ; yet, if the diarrhœa was due to indigested matter, it was still proper to evacuate the bowels. Rhubarb and calomel were suitable for the purpose.

2d Ans. to cross-int :

My answer to plaintiff's direct interrogatory 3d, is a sufficient reply to this question.

3d Ans. to cross-int :

For answer to this, I refer to my answer to 1st cross-interrogatory just given.

4th Ans. to cross-int :

The reasons given in both exhibits A and B, are my reasons for thinking so.

I shall be permitted to state here, that the opinions I shall give as an expert, in answering these interrogatories, will be based upon the principles of medicine taught by the standard works upon this subject, both of this country and of Europe, as I understand them ; and I refer to them, any and all of them, in support of such opinions as I may give. I have not the time to run through the many standard authors who treat upon this subject, and cite text, volume, page, etc. A list of such works will be furnished by any physician.

5th Ans. to cross int :

My reasons are deduced from the severity and protracted character of the convulsions, and their effects upon the

organism, as detailed in the exhibit, and the absence of an obvious eccentric cause.

6th Ans. to cross-int :

The gravity of the symptoms given in exhibit A, as, for instance, the expression of the countenance, dilated pupils and insensibility to light, character of the respiration and pulse, clenched hands, nervous agitation and stupor, and also the final result.

7th Ans. to cross-int :

See my answer to 6th interrogatory, just given.

8th Ans. to cross-int :

Convulsions occur at any age of infancy and childhood, less frequent after six or seven years than previously ; some children are more liable than others ; those of an impressionable nervous system have them from slight causes, and they are frequent in certain families. Symptomatic convulsions are always serious in children, and a large majority of cases result fatally. Sympathetic convulsions depend upon the nature of the primary disease or cause as to their fatality, and a majority of this class of patients recover—probably as many as 75 per cent of the latter to 25 per cent of the former.

9th Ans. to cross-int :

Exhibit B would indicate that ice might have been used to excess. The manner of applying it in rubber bags was proper. Whether the quantity used, as shown in exhibit B, was in excess, I am unable to determine—the temperature not being furnished, nor the frequency and character of the pulse fully stated and registered, I am without the necessary data upon which to base a decided opinion ; nor am I able to state how long ice could be used in the manner described without suspending vital functions. I can say, however, that I did once keep snow piled around the

head of a man, the subject of acute spinal meningitis, for 48 hours with recovery of the patient.

10th Ans. to cross-int :

By opinion of the correctness of treatment is based upon the state of facts described as existing in plaintiff's exhibit A.

11th Ans. to cross-int :

I think not ; for the reasons, viz :

1st. The manner of death, and the symptoms of the case, do not give evidence of the specific toxic effect of the remedies referred to.

2d. The manner of death, the etiology and symptoms furnished, are of that kind and character attendant upon a case of death by symptomatic eclampsia or acute centric convulsions.

12th Ans. to cross-int :

Ice or cold applications should be used in such manner as to reduce the excessive temperature of the brain, and so continued as to keep it abated.

13th Ans. to cross int :

When the brain, in children, is much involved, either by congestion or inflammation, the extremities are likely to be cool though the head be very hot. It would be proper treatment to warm the extremities, and cool the head. There is proper limit to both, in the discretion and judgment of the physician, which, in this case, from the exhibits before me, I am not able to determine with mathematical certainty and definiteness, or to prescribe a geometrical rule and arrangement of the several ice-bags.

14th Ans. to cross-int :

I refer to my answer just given to 13th cross-interrogatory.

15th Ans. to cross-int:

When the temperature and excitement of the circulation have been brought down low enough by the sedative action of the cold, it should be discontinued, and again resorted to when, and in such manner and quantity only, as to keep the heat and excitement within due bounds.

16th Ans. to cross-int:

The most prominent medicinal effect of chloral is the abatement of pain, and the inducing of calm, quiet sleep. The degree of its effects and the extent of its action are determined by the quantity given. It may be given so as to completely anæsthetize the patient, as by the inhalation of chloroform. When it produces fatal effects it is by paralyzing the action of the heart and lungs.

17th Ans. to cross-int:

Any medical opinion of those untaught in medicine should not have undue weight with the attending physician. The physician, however, should use diligence to elicit all the facts that relate to the history and nature of the case, and should make all enquiries of parents needful to a knowledge of the person's habits, health and probable causes of the present illness of the patient.

THOS. D. WOOTEN, M.D.

Sworn to and subscribed before me, this 23d  
day of April, A. D. 1877.

[SEAL.]

JAMES NEILL,  
J. P. and Ex officio Notary Public,  
Travis County, Texas.

CROSS-EXAMINATION ON EXHIBIT B.

Answers to additional cross-interrogatories of defendant to  
said witness, Tomas D. Wooten, M.D.

1st Ans. to cross-int:

I have carefully read exhibit B, attached to these inter-  
rogatories.

2d Ans. to cross-int :

I don't think I ever gave as much as 15 or 16 grains each of calomel and rhubarb to a child four years old. I do not regard such a dose as inordinate under the circumstances. The circumstances would suggest the propriety of an aperient, and I see nothing wrong in using calomel and rhubarb for that purpose.

3d Ans. to cross-int :

That the little boy referred to, died of disease of the brain, (from the effects made) I have small doubt. The several causes that may have contributed to bring about the brain trouble are not very fully set forth and elaborated. We can well understand, however, how external and excentric morbid influences may have had their effect in developing a concentric brain trouble, and the previous derangements of stomach and bowels, doubtless, had its influence.

3d Ans. to int :

Emetics are in favor with the profession in the beginning of eclampsia, for two effects :

1st. For relaxing effect upon the muscular system, resulting from the nausea excited.

2d. To empty the stomach of any irritating ingesta.

Ipecac is usually selected as the emetic for its mildness and prompt action. When freely diluted with water the quantity given is not so important since when nausea is excited it is thrown back. The brain being engorged with blood the cold applied to the head was not calculated to prevent the action of the ipecac.

5th Ans. to cross-int :

I consider hydrate of chloral a proper remedy under the circumstances; the child's brain being involved was no bar to the use of chloral. It relieves pain and

nervous excitement without increasing the circulation of blood to the brain. Its effect is to produce calm, quiet, sleep and its action is ordinarily manifested but slightly in any other way.

6th Ans. to cross-int :

Cold as an agent in the treatment of inflammation of the brain and its membranes is invaluable, and is very largely and generally used by the profession the world over. It is applied in various forms—by pouring cold water upon the head, by enveloping the head in cloths wrung out of cold water, by the use of ice in bags, æther spray, etc. Ice pounded and applied in guttapercha bags is an efficient and favorite mode of applying cold to the head, and is usually indicated in eclampsia where the brain is involved at all ages—where the head is abnormally hot; and it is applied with the view of bringing down the temperature, and the quantity regulated accordingly. Exhibit B indicates an inordinate quantity used for that purpose

7th Ans. to cross-int :

Quinine is used to relieve congestion of the brain and its membranes, especially where malaria is thought to exert an influence in the production of congestion; and when given in full dose it reduces the temperature and may be valuable in that regard. Its use hypodermically, is more prompt and certain in its action. Every two hours is not an unusual period of giving quinine.

8th Ans. to cross-int :

I do not think the use of ice was the cause of the death of the child.

9th Ans. to cross-int :

There have been a few cases of death from the use of

chloral reported in the medical journals of both this country and Europe.

10th Ans. to cross-int :

The symptoms are those of exhaustion.

11th Ans. to cross-int :

I am unable to say. I have no experience or data on this point.

THOS. D. WOOTEN, M.D.

Sworn to and subscribed before me this  
28th day of April, A. D. 1877.

[SEAL.]

JAMES NEILL,  
J. P. and Ex-officio Notary Pub.,  
Travis County, Texas.

STATE OF TEXAS, }  
COUNTY OF TRAVIS. }

I, James Neill, justice of the peace and ex-officio notary public, duly commissioned in and for precinct No. 3, Travis county, Texas, do hereby certify that the foregoing answers of the witness, Thomas D. Wooten, before named, were taken before me, and were sworn to and subscribed before me by the said Thomas D. Wooten, M.D.

Given under my hand and official seal, this  
23d day of April, A. D. 1877.

[SEAL.]

JAMES NEILL,  
J. P. and Ex-officio Notary Public,  
Travis County, Texas.

A. G. CLOPTON, M.D.

STATE OF TEXAS, }  
 COUNTY OF LAMAR. }

In the district court, spring term, 1877.

J. M. FORT }  
 vs. }  
 R. PETERSON. }

To RICHARD PETERSON, Esq. :

You will take notice that five days after the service hereof, we will apply to S. W. Williams clerk of the district court of Lamar county, for a commission to take the deposition of A. G. Clopton, M.D., a resident of the city of Jefferson, county of Marion, state of Texas, in response to the accompanying interrogatories, his answers thereto to be used by the plaintiff as testimony in the trial of the above-entitled cause, now pending in the district court of Lamar county, Texas.

MAXEY, LIGHTFOOT & GILL,  
 WRIGHT & McDONALD,  
 Attorneys for Plaintiff.

INTERROGATORIES.

Interrogatories to be propounded to plaintiff's witness, A. G. Clopton, M. D., of the city of Jefferson, Texas.

1st interrogatory :

Please state your name, age, and place of residence, and occupation or profession. If you say you are a member of any of the professions, please state how long you have so been.

## 2d interrogatory :

If, in answer to preceeding interrogatory 1st, you state you are a physician, please examine carefully and closely the annexed exhibit, marked exhibit A, 2d interrogatory. If you have so examined it, please so state. If you have so examined said exhibit containing a statement of the case and its treatment of Charles D. Peterson, child of Richard Peterson, then please state what influence, in your opinion, was exerted by the dose of calomel and rhubarb administered by the physician attending, at his first visit to the case.

## 3d interrogatory :

Please state when mercury (calomel) is introduced into the human stomach and comes in contact with the gastric juice, what chemical change is produced by such contact in the composition of the mercury (calomel)? and state further, what irritating or poisonous effect, if any, would the mercury (calomel), after undergoing such chemical change, have or produce upon the system? and state further, what symptoms, if any, occurring in the case of Charles D. Peterson, as shown in said exhibit, were, in your opinion as a physician, the effect of mercury (calomel) introduced into the stomach of Charles D. Peterson?

## 4th interrogatory :

Had the cathartic (calomel and rhubarb) acted upon the bowels in said case prior to the invasion of the convulsions, what effect, in regard to the convulsions, would, in your opinion as a physician, have been produced by such action?

## 5th interrogatory :

Under the circumstances of the case as reported in said exhibit, what is your opinion, as a physician, of the practice pursued in administering the cathartic?

## 6th interrogatory :

After, as shown by said exhibit, the bowels had been acted upon by the enema and the stomach evacuated by the emetic, and no undigested food or other irritating substance discharged, and the convulsions continuing after this, and other treatment as set forth in said exhibit, and after it was ascertained that the child had not been exposed to the poison of any of the eruptive fevers, and as the child was not of an age to be teething, what is your opinion, as a physician, as to the cause of the convulsions?

## 7th interrogatory :

If, in answer to the foregoing interrogatory (6th), you state that in your opinion, as a physician, the convulsions in said case were produced by a disease of the brain or its membranes, and if further, as is shown by said exhibit, the attending physician saw the case for the first time, at about 2 o'clock p. m., and at that time there were no prodromic symptoms of cerebral disease, save fever, and the convulsions coming on in from half an hour to one hour thereafter, then please state with what degree of certainty in your opinion, as a physician, could the character of the disease of the brain or its membranes, producing such convulsions, be determined? Please state further what, in your opinion as a physician, under the circumstances of the case as shown in said exhibit, was the character of the convulsions in said case? State by what name or names such character of convulsions are known by the medical profession?

## 8th interrogatory :

Under all the circumstances of the case, as shown by said exhibit, attendant upon the invasion of the convulsions, please state fully with what degree of certainty could a diagnosis be made of the acute disease of the brain or its membranes, producing such convulsions?

## 9th interrogatory :

What lesion of the brain, if any, was, in your opinion as a physician, indicated by the train of symptoms enumerated in said exhibit, as existing some three or four hours after the invasion of the convulsions ?

## 10th interrogatory :

If, in answer to interrogatory 7th, you state that, in your opinion, the convulsions in this case, reported in said exhibit, were centric or symptomatic, then please state what peculiar organizations among children are most liable to this character of disease ?

## 11th interrogatory :

Please state what is the prognosis of the disease enquired of in the preceding interrogatories ? and when not fatal, please state what condition, physically and mentally, does this character of disease leave the patient.

## 12th interrogatory :

Please state in regard to the liability of children to convulsions in attacks of eruptive fevers, such as scarlatina, small-pox, etc.

## 13th interrogatory :

If, in answer to interrogatory 7th, you have stated that this was a case of centric or symptomatic convulsions, will you please state what course of treatment, in such cases, is advised or laid down by the standard medical authorities to be pursued. Please state the name or designation applied by the medical profession to such course of treatment. If you say such course of treatment is antiphlogistic, then please state fully what remedies are embraced in and constitute this plan of treatment.

## 14th interrogatory :

Under the circumstances and history of the case, as described in said exhibit, what is your opinion, as a physician,

of the course of treatment pursued therein? State fully.

15th interrogatory :

Please state your opinion, as a physician, of the treatment pursued during the continuance of the convulsions, as shown in said exhibit. And state further how such plan of treatment so shown, agrees with the plan of treatment in such cases laid down in the standard medical authorities ; and state your opinion as a physician, as to the plan of treatment agreed upon and pursued by the attending physicians, after the cessation and during the non-existence of the convulsions through the night following their invasion.

16th interrogatory :

When a case presents the general symptoms, as shown in said exhibit, and the special symptoms of abnormal heat of the head, frequent livid flushings of the face and scalp, with great agitation of the patient, as evinced by the great rigidity of the muscles, chattering of the teeth, clenched hands, etc., please state your opinion, as a physician, of the practice pursued in making cold applications to the head, and of the manner in which said applications are made. State the effect produced by cold applications by ice to the head, and the effect of cold applications by the pouring of cold water, from any height, upon the head ; and state fully the difference, if any, in the effects produced by these two methods of making cold applications. And state which, in your opinion as a physician, is the best method of making cold applications in the acute cerebral diseases, such as are reported in said exhibit ; give your reason therefor, and state the rule laid down by the standard medical authorities on these points. Please state further how long such cold applications, in your opinion as a physician, should be continued. State the line of practice upon this point, enunciated by the standard medical authorities.

17th interrogatory :

In your opinion, as a physician, how would you regard the use of hydrate of chloral in the case reported in said exhibits, when undue excitation of the nervous system exists?

18th interrogatory :

From your own knowledge of the science and art of medicine, how would you regard the opinion of anyone not a physician, as to the nature and character of the disease, such as is reported in said exhibit, and the proper remedies to be used, times and modes of administration, etc.?

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,  
Attorneys for Plaintiff.

For plaintiff's exhibit A, 2d interrogatory, see page 162 and following pages.

#### CROSS-EXAMINATION.

Cross-interrogatories to plaintiff's witness on plaintiff's direct interrogatories to exhibit A.

1st cross-interrogatory :

If you state, in reply to plaintiff's 2d direct interrogatory, that calomel and rhubarb was the proper remedy, under the circumstances named in his exhibit A, give reasons in full, and standard book authority. State whether or not said dose of calomel and rhubarb would have been the right medicine to give to a child of his temperament if he had diarrhœa for two days previously, and a full evacuation of the bowels about midnight, July 29th.

2d cross-interrogatory :

If you answer plaintiff's direct interrogatory 3d, please state whether or not your answer in such a case may not

be purely a speculative one. If you say it is not, give reasons in full—book, page, etc.

3d cross-interrogatory :

If, in answer to plaintiff's 4th and 5th direct interrogatories, you say the cathartic was the proper remedy, say whether or not, if, under the circumstances set forth in defendant's statement marked exhibit B, and attached to these cross-interrogatories, the administration of said cathartics was not bad practice—that is to say, taking note that the child had diarrhœa and fever, and was of a nervous sanguine temperament.

4th cross-interrogatory :

If, in answer to plaintiff's direct interrogatory 6th, you state that the convulsions were the result of disease of the brain, state reasons in full—book authority, volume and page.

5th cross-interrogatory :

If, in your answer to direct interrogatory 7th, you state that the convulsions were not the result of reflex action, please state reasons in full—book, volume and page.

6th cross-interrogatory :

If, in answer to plaintiff's direct interrogatory 8th, you state that the case was acute disease of the brain or its membranes, please state reasons in full—standard book authority, book, volume and page. Please state here what derangement, either functional or organic, is it that leads most frequently to convulsions in children. State authority as before directed.

7th cross-interrogatory :

If, in response to plaintiff's direct interrogatory 10th, you say the convulsions were centric, please give reasons in full—standard medical authority, book, volume and page.

## 8th cross-interrogatory :

Please state here, if you answer plaintiff's direct interrogatory 12th, whether or not convulsions are not a very common malady among children of Charles D. Peterson's age, and what per cent of children of his age die from convulsions. Give standard medical authority—book, page, etc.

## 9th cross-interrogatory :

If, in answer to direct interrogatory 13th, you say ice is a proper remedy under the circumstances detailed by plaintiff in his exhibit A, you will now please examine defendant's exhibit B, and then say, if—under the circumstances therein described, the manner and form of application—ice was the proper remedy, and whether or not it was judiciously made use of by the attending physician. Say also here how long a child's head can be imbedded in four bags or rags of ice, each containing 8 to 12 ounces of pounded ice, without suspending the functions of the brain.

## 10th cross-interrogatory :

If you answer to direct interrogatory 14th, that the plan of treatment pursued by the physicians was correct, please state whether or not your opinion does not depend altogether on the correctness of the diagnosis of the case as set forth in plaintiff's exhibit A.

## 11th cross-interrogatory :

If you answer plaintiff's direct interrogatory 16th, say whether or not the symptoms enumerated therein may not have been the result of the combined effects of the calomel and rhubarb, water, ipecac, ice and chloral? If you say these symptoms could not have been produced by these remedies, state your reasons in full, and if any medical authority is relied on, give book and page. State also what quantity of ice, the number of ounces, the number of parcels, and the manner and form for applying ice to the

head of a child of his age, as it is laid down in the books. State standard medical authority.

12th cross-interrogatory :

State whether or not it is proper to put two parcels of ice to a child's head, under the circumstances, at one time. State if it is proper to put four parcels to the head at one time. State how long the ice ought to be left without shifting. State if there is room on a baby's head to shift four parcels. If you answer that it is proper to put even two parcels of ice to a child's head at a time, and that it is proper to shift the parcels on the head, please make a diagram on paper and attach it to your answers, showing how this shifting process can be done; also showing how the problem of four bags or rags of ice applied to the baby's head simultaneously, may be solved, and not apply the ice directly to the same parts of the head.

13th cross-interrogatory :

Please state your opinion as to whether or no it is usual in cases like the present, to continue cold application to the child's head when the feet and hands are cold. If you say it is usual and good practice, state how long after said indications—that is to say, after the hands and feet become cold and incapable of being affected by external applications—should even two bags to the head be continued? If you say the cold applications should be continued at all, under these circumstances, give book, volume and page of standard medical authority.

14th cross-interrogatory :

Please state whether or not it is proper to keep two bags of ice to the head hours after the pulse has gone down below the normal standing—that is to say, to keep ice to the head for 10 or 12 hours after the pulse has began and continues to diminish in rapidity and volume, until the beat becomes imperceptible to the touch, first on the right arm,

and then until it disappears altogether, and until death ensues. If you say this is the practice, give standard medical authority, book and page.

15th cross-interrogatory :

Ought not all cold applications to the head to be promptly discontinued when the pulse is small and feeble or below the normal standard, and when the feet and hands are so cold that they can not be warmed?

16th cross-interrogatory :

If, in answer to plaintiff's interrogatory 17th, you say chloral is the proper remedy in such case, please give the train of symptoms in full, which would be likely to follow the free and frequent administration of chloral to a child under these circumstances. Give standard medical authority, volume and page.

17th cross-interrogatory :

If, in answer to direct interrogatory 18th, you say, from your knowledge of the science and art of medicine, you have not a high regard for the opinion, etc., as there cited, of persons not doctors, please explain yourself fully. Please state whether or not you do not always enquire of the parents whose children you may be called to treat, for any ailment whatever, as to the habits of the child, the symptoms present, and what may have been done for it before your arrival. In other words, do you not usually place great reliance on this character of information?

R. PETERSON, Defendant.

For defendant's exhibit B, see page 171, and following pages.

Cross-interrogatories upon defendant's exhibit B, to A. P. Clopton, M.D., witness for plaintiff.

1st cross-interrogatory :

Please carefully examine exhibit B, page 171, and state

whether or not you have so read said exhibit B.

2d cross-interrogatories :

Please state whether or not you ever gave 15 or 16 grains of calomel and rhubarb to a child four years old. State whether such a dose was proper under the circumstances set forth in said exhibit B. State whether, under the circumstances, calomel and rhubarb was the proper remedy. In any event, state your reason in full, and the standard book authorities that you rely on for such proceeding. Be particular and state the name of the author of standard authority, book, volume and page.

3d cross-interrogatory :

State now, if you please, what was the matter with Charles Darwin Peterson—whether the convulsions incident to childhood, induced from indigestion, worms, stomach irritation, etc.; or whether, in your opinion, the convulsions were caused by disease of the brain. State your reasons in full, and give standard authorities that you may rely on for your opinion, book, volume and page.

4th cross-interrogatory :

Please refer to exhibit B of these cross-interrogatories, and give your opinion as to the ipecac. Was it a proper medicine, under the circumstances? You will note that it was on Saturday morning, July 29th, 1876, about 9 or 10 o'clock, that the child ate the watermelon, aforesaid, and on that day, as well as the preceeding, he had slight dairrhœa, and that about noon that day he had slight fever; and that at night, about midnight, he had a copious action of the bowels. If you say it was proper, say whether or not the quantity was excessive. You will note that the child, according to the statement, marked exhibit B, vomited but slightly. Was not the prior application of cold well water, poured on the head, calculated to so depress the patient as to induce a condition unfavorable to the

action of the emetic? Remember that the child was, shortly after the administration of the emetic, put down in his crib on the ice pillow, and ice applied in rags on both sides of his head. Was not this cause calculated to prevent vomiting and require the ipecac to pass off through the bowels? Would not this produce still further depression of the vital forces of the system?

5th cross-interrogatory :

- If you state that the convulsions showed inflammation of the brain, please state whether or not chloral hydrate as administered by the doctor, as described in exhibit B, was an appropriate remedy. Please state if it was a proper drug to give a child, under the circumstances set forth in exhibit B. State if this is your practice in like cases. State your reasons in full. State the effect produced by this drug on the brain, and the symptoms exhibited by a four year-old child under repeated doses of it. State what standard writers you rely on, book, volume and page.

6th cross-interrogatory :

Please state your opinion as to whether ice is the proper remedy in such cases, under the circumstances set forth in exhibit B. State whether or not the quantity of ice, set forth in exhibit B, was proper under the circumstances, or in any event, to be applied to the head of a four-year old child. State your reasons, standard book authorities, volume page, etc.

7th cross-interrogatory :

Please state your opinion to the propriety of the hypodermical administration of quinine to a child under all the circumstances. State your opinion as to the two-hour doses of quinine.

8th cross-interrogatory :

Please state whether or not, in your opinion, it was not the excessive use of ice on the 30th of July as applied to

the head of the child, which produced his death. Please state, in your opinion, whether the child was not literally frozen to death.

9th cross-interrogatory :

Please state if death is not frequently induced by the use of hydrate of chloral.

10th cross-interrogatory :

Please state the symptoms exhibited while dying from excessive cold.

11th cross-interrogatory :

Please state what aspect the face of the corpse would present after being frozen to death by the use of ice applied to the head.

R. PETERSON, Defendant.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

I, S. W. Williams, clerk of the district court of Lamar county, do hereby certify that the foregoing is a true copy of the original interrogatories, now on file in my office, in the above-entitled cause.

Given under my hand and official seal, at  
Paris, Texas, on this the thirteenth day of  
[SEAL.] March, A. D. 1877.

S. W. WILLIAMS,  
District Clerk,  
Lamar Co., Tex.

S. F. ALSTON,  
Deputy Clerk.

Commission attached.

STATE OF TEXAS, }  
 MARION COUNTY. }

I, Wm. E. Estes, a notary public in and for the county of Marion, by virtue of a commission to me, directed from the district court of Lamar county, Texas, in a suit in said court, now pending, wherein J. M. Fort is plaintiff and Richard Peterson is defendant, have caused Albert G. Clopton, the witness, in said commission named, to appear before me and after being duly sworn, true answers to make to the interrogatories accompanying said commission, the said witness answering says, to wit:

ANSWERS TO INTERROGATORIES.

1st Answer to interrogatory:

My name is Albert G. Clopton; 48 years of age; reside in Jefferson, Marion county, Texas; am a practicing physician; have been practicing my profession for 26 years.

2d Ans. to int:

I have examined carefully exhibit A; do not think that the dose of calomel and rhubarb had any influence upon the case reported.

3d Ans. to int:

Do not believe mercury introduced into the stomach, and coming in contact with the gastric juice—if the natural secretions of the stomach are normal—undergoes any decomposition. It is very volatile under heat, and I believe it is absorbed as calomel, and thus taken into the circulation, or acts mildly as a purgative, and passes off with the intestinal discharges. When there is an excess of acids in the stomach, more especially muriatic or nitric, or the chlorides, some of it may be changed into bi-chloride of mercury, and if the quantity of calomel was large, and above the acid in excess, might prove a poisonous irritant. Have never witnessed such effects; am doubtful that such decomposition ever takes place from excess of acids

in natural secretions. But, looking at it in the light of the chemist, and granting that the same change would take place in the stomach, as would in a glass vessel, under the contact of calomel and above acid, it is not impossible. Have known ignorant men to prescribe such incompatibles as common salt, nitric and muriatic acids with calomel, without any evidence of such decomposition, so far as effect upon the stomach could be observed. If such change were to take place to any extent in the stomach, it would produce severe vomiting, or active diarrhoea, with all the symptoms of an irritating poison. The case as reported, presents no effect of any kind from the calomel given.

4th Ans. to int :

It might have prevented the convulsions, though I do not think it would in the case reported. Had this dose been given several hours sooner, it would, perhaps, have changed the features of the case entirely, and the patient might have recovered.

5th Ans. to int :

It was good and scientific practice, based on correct therapeutics, and was *secundum artem*.

6th Ans. to int :

Inflammation of the brain or its membranes.

7th Ans. to int :

I do not think any physician could have diagnosed with certainty the brain trouble, in the case as reported in exhibit A, one hour before supervention of the convulsions. The first alarming symptom in said case as reported (which told of the brain lesion), was the convulsions. The convulsions were symptomatic, and known to the profession as centric or symptomatic eclampsia.

8th Ans. to int :

I do not understand the question. It is rather ambigu-

ous. If it is meant before the supervention of convulsions, no symptom is reported in exhibit A which could have led to a diagnosis of brain complication. If it is meant after the train of symptoms, which come up with and followed convulsions, the brain lesion could be diagnosed with a reasonable certainty.

9th Ans. to int :

Meningitis, or perhaps <sup>6</sup>encephalitis.

10th Ans. to int :

Cannot answer this question positively ; do not think the statistics satisfactory—at least do not correspond with my experience. If we give full credence to the statisticians upon the subject, we must look upon the full habit, close built, large-headed, ruddy child of active *nervo-sanguine* temperament, as being more subject than others.

11th Ans. to int :

Prognosis is bad—majority die, and when recovery does take place, it is often not complete—leaving the intellect impaired, the passions morbid, and the body often paralyzed.

12th Ans. to int :

Convulsions often usher in the eruptive fever, before the characteristic eruption appears, and sometimes late in the disease (more especially scarlatina); they are due, we think, to the poisons of those diseases contaminating the blood.

13th Ans. to int :

Antiphlogistic, which includes blood-letting (by venesection or cupping or leaching), emetics, purgatives, counter-irritation (by blister and cold compresses), with such remedies as control and reduce the heart's action, pulse, etc.

14th Ans. to int :

I think the treatment was proper, and in accord with the teachings of our therapeutics.

15th Ans. to int :

My answer to interrogatory 14th includes this interrogatory. I can see no reason for condemning any part of the treatment. It may be that I would not have used some of the remedies, but the treatment was *secundum artem*, and had no deleterious effect upon the child.

16th Ans. to int :

I believe cold applications to the head are indicated, and ought to be applied. Applications of ice to the head, under such symptoms, is to reduce body heat, calm nervous symptoms, moderate the pulse, and modify the inflammation. Its primary and principal effect is to cool the mass of blood circulating through the system, and the other effects follow. The effect of pouring a stream of cold water and applying ice to the head is the same, with this difference—a stream of cold water is more depressing, and acts with more rapidity; which would be preferable, depends upon circumstances. In the first convulsion, coming on at the beginning of an attack, and symptomatic in its character, I should prefer the cold douche, but if the convulsions continued to recur and the brain trouble continued, I should then prefer cold applications of ice to the head, as it is more regular and continued in its effect, and being more under the control of the physician. In idiopathic or eccentric convulsions, coming on late in the attack, I should prefer the application of ice to the head, at any time; they both act upon the same principle—by cooling the mass of circulating blood. The standard authorities, as far as my investigation goes, endorse the above views. The authorities teach that the application of ice should be continued till the disease is under control of remedies, as evidenced by amelioration of dangerous symptoms, and reduction of head temperature to normal standard, as evidenced by touch, and more especially fever thermometer. They are often left on or kept up when the patient is moribund, un-

der the idea that they may avert the death spasm, which so often attends those diseases. Do not think that they would have such effect, but am satisfied they do no harm to the dying patient.

17th Ans. to int :

I think it is indicated and approved by modern authorities. It is a modern remedy, and only written of by modern authors.

18th Ans. to int :

I would give as much weight to the opinion of a man about the symptoms and treatment of the disease referred to in interrogatory 18th, who had no knowledge of the science of medicine, as I would to the opinion of Spotted Tail or Sitting Bull upon the Darwinian theory of creation. A man who had a long experience as a hospital nurse or observation of the disease in question, might know something about it without having a knowledge of the medical science—he would absorb it.

ALBERT G. CLOPTON, M.D.

Sworn to and subscribed before me, at  
my office, in Jefferson, Texas, this the  
[SEAL.] 30th day of March, A. D. 1877.

W. E. ESTES,  
Notary Public.  
Marion Co., Tex.

And the said Albert G. Clopton, the witness named in said commission, under his said oath, further answers the cross-interrogatories, and says, to wit :

1st answer to cross-interrogatory :

Yes ; at the time that symptoms of brain lesion was latent, and the physician thought he had a case of intermittent or remittent fever to contend with (exhibit A reports that he was informed by the mother that his bowels

had not moved for some time), and it was right to give the mercurial cathartic, because it was a mild cathartic, and might answer the double effect, of moving the bowels and exciting the liver.

Bartlett on Fevers.

Atkins on the Science and Practice of Medicine.

Stokes on Fevers.

West & Churchill on Diseases of Children.

By referring to those works upon billious remittent fever you will find all recommend an active compound mercurial cathartic at the beginning of the fever I do not think this is controverted by any standard authority. It is also a remedy recommended by the standard authorities in the disease which was afterwards diagnosed, in the case reported in exhibit A.

West on the Diseases of Children (Convulsions).

That it was not contra-indicated by any previous diarrhœa, is evidenced by the after history. An enema was required to move the bowels. Whilst it is not good practice generally to give such a cathartic when active diarrhœa prevails, yet it is sometimes indicated; when such is the case it must be left to the judgment of the medical attendants.

Churchill on Diseases of Children, 1st ed., p. 148,  
No. 209.

In referring to authorities I will sometimes refer to an older edition than the last issued, and the page may not correspond. Also will refer sometimes when I know the views of the author without giving page; because the work is not conveniently accessible. Calomel is modified by combining with rhubarb.

2d Ans. to cross-int: \*

My answer to plaintiff's direct interrogatory 3d is not

not barely speculative, but in the main, is spoken under authority, vide: United States' Dispensatory, and Thompson's *Materia Medica and Therapeutics*, (under the head of calomel). My opinion will be substantiated by these authorities; and it will be found, that when calomel is decomposed into bi-chloride and acts as a poison, it has the action of an irritant poison, characteristic of corrosive sublimate. In the case reported, there is no evidence of any effect, good or bad, from the dose of calomel given.

3d Ans. to cross-int :

The first part of 3d interrogatory is fully answered in my reply to interrogatory 1st. The temperament did not contra-indicate the medicine.

4th Ans. to cross-int :

I will preface my answer to this cross-interrogatory by the following remarks :

When all the symptoms of special diseases are grouped by the author, it is not intended to convey the idea that these symptoms are to be found in full, or in regular order in all, or even in a majority or minority of cases. Many of them are absent in this case and present in that, but there are symptoms, and sometimes a single symptom, which tell the disease as plainly as the mark on a hog's ear tells the owner. When a great number of the symptoms grouped by the authors, appear in a given case, it is an exception to the rule. Symptoms which go to make up a disease, do not appear in the regular succession of the days which go to make up the week. But there are symptoms which are pathognomonic, and leave us in no doubt.

The case reported in exhibit A, had it died in the first convulsion, would have left me in doubt whether it died from centric or eccentric eclampsia. I would have inclined to the opinion that it died with accretive or reflex convulsions. This opinion would have been based upon the ab-

sence of prodromic symptoms, the absence of vomiting, and the early invasion of the convulsions. But the subsequent symptoms cleared the diagnosis. The recurring convulsions, with only partial amelioration of symptoms during remission, the stupor, the fixed, dilated condition of the pupil, refusing to respond to the the usual excitement, the difference in the pulse-beat of the two sides, and its diminished rapidity, and, above all, the continued blindness, go to make up a sum of symptoms which point with unerring accuracy, to the character of the convulsions. Cerebric convulsions are more common in children after than before dentition. Eccentric convulsions are more common during dentition than before.

West (late ed.), p. 42.

Churchill's Dis. of Children, 1st ed., p. 130, No. 171.

I. L. Smith on Dis. of Children (Convulsions).

5th Ans. to cross int :

The answer given to interrogatory 4th, with reference, is my answer to this.

6th Ans. to cross-int :

Answer to interrogatory 5th is my answer to first question in this interrogatory. Convulsions are oftener reflex than symptomatic, functional than organic, in children. The most common exciting causes are teething and constipation—first cause ceasing after dentition is completed, and second cause having less and less effect in exciting spasms, with each year of growth.

West on Diseases of Children, 3d ed., p. 44.

7th Ans. to cross-int :

See answer to interrogatory 4th.

8th Ans. to cross-int :

Convulsions are common with children of 4 years of age, but are less so than at an earlier age. At the age of one the proportion of deaths from convulsions, to deaths from

all other causes, are over 30 per cent; the fourth year they are over 17 per cent.

West's Table, p. 44.

9th Ans. to cross-int:

I do not think, from report in exhibit B, that the ice did any injury in the case, or lessened the chances of recovery; but, from the report in exhibit A, was of benefit. The quantity reported in exhibit B, if used, did not seem to produce any bad symptoms. No symptom is detailed there which could be ascribed to the ice. Could not say how long ice could be applied to a healthy child's head, without bad results; have never tried it, or heard of anyone doing so; have never known a child with inflammation of the brain to be frozen, but, of course, when the disease has been conquered, the application would be removed, and lessened as the disease was gradually brought under control.

10th Ans. to cross-int:

My opinion is based upon my own diagnosis of the case made upon the history of symptoms as set forth in exhibit A.

11th Ans. to cross-int:

I know they were not the results of the remedies mentioned. Calomel and rhubarb never produce, per se, such symptoms. My opinion is established by the fact that every authority upon these remedies or upon convulsions, is silent as to any such effects having been produced by them; and no medical man ever asserted that he had witnessed such effects; and in a long experience, I have never seen any such effects. Again, no irritation of the stomach or intestines, as indicated by the symptoms, was produced by the dose of calomel and rhubarb; hence, it could not have caused convulsions by its secondary effect. The other remedies have no such effect, per se, and they were not used

antecedent but subsequent to the symptoms, and for their relief. The manner and form of applying ice is direct to the surface of the scalp, in bags or cloths—generally two bags of well-pounded ice, one under, as a pillow, and the other resting lightly on the top of the head—each wrapped in a napkin. The exact number of ounces to be used is not laid down by any author, and no writer upon medical jurisprudence has anticipated this interrogatory by writing about it.

West, 6th ed., p. 51.

12th Ans. to cross-int :

The question is very indefinite. I suppose it would depend upon the size of the parcels. Nothing definite can be said about the length of time before shifting; it depends upon the judgment of the attending physician; the size of the bags must determine whether there was room to shift two or four bags.

I decline to make a diagram, for several reasons :

1st. The request is lacking in courtesy. I am no partisan witness, and have no interest or desire to testify for or against, but, in the light of the science which I profess, to tell the truth.

2d. I am not good at diagrams; and if I was, I have no report from either plaintiff or defendant of the exact size of the child's head and of the bags used. Bags have all shapes—long and short, narrow and wide; and of all sizes, from the little, long, narrow money-bag, which is so often empty, to the large meal-bag, and larger. If you refer to history you will see where military chieftains have bagged great armies.

I can suggest a better plan. Let defendant (may it please the court) procure a skeleton skull, and if that is impossible, a living head of the same dimensions of the deceased child's, with the identical bags, or some of exact dimensions, and demonstrate in open court, the impossibility of

the shifting process. This is a mathematical question, and should be relegated to the domain of mathematics. If defendant, by this practical, mathematical demonstration, proves the impossibility of shifting, then it becomes a question of legerdemain, and the "onus demonstrationes" devolves upon the plaintiff. Witness would not anticipate the rulings of His Honor.

13th Ans. to cross int :

Coldness of the hands and feet is not the indication by which we determine the use or continuance of cold applications. This is almost an invariable symptom in acute disease of the brain attended with convulsions, and the change from cold to warm is an indication of the amelioration of the disease. The effect of cold applications to the head—in such cases where it acts sufficiently to do positive good, by modifying the activity of the local inflammation—warms the extremities. The therapeutical effect of cold compresses, in such cases, is to relieve the local irritation, excitement and inflammation, and thus to equalize the nervous force and circulation, which was before centered on the brain, more generally over the body. Cold applications of ice should be continued until the dangerous symptoms of the disease have subsided, or nearly so.

Churchill on Diseases of Children, 1st ed., p. 149,  
No. 206.

When we apply cold to the head, we should use all available applications to the extremities, to keep them warm, such as hot foot-baths, mustard, etc.

14th Ans. to cross-int :

The peculiar pulse-beat was a symptom of brain disease, when taken in connection with other symptoms. The application of cold to the head had nothing to do with it. As to how long to continue the ice, with such a pulse, I can not refer you to any special authority for my opinion.

No author has told us, thinking, no doubt, that the physician would have some sense and judgment, and never anticipating that such a question would be propounded to a witness. I do not think another similar case, with anything like similar cross-interrogatories, can be found in the annals of medical jurisprudence.

15th Ans. to cross-int:

I should cease cold applications, and all other remedies, when my patient was moribund—not because I think it would do harm, but no good.

16th Ans. to cross-int:

The effect of chloral under such circumstances, is to quiet nervous excitement, allay spasm, and promote sleep without the bad effects attributed to opium. Opium produces congestion of the brain in large doses; chloral, anaemia, it should be administered judiciously.

17th Ans. to cross-int:

I always enquire of parents or nurses about the symptoms which have before appeared and are not now to be seen, and which any intelligent observer might notice; also habits, and previous medicine taken—but with no thought that they can apply these symptoms to diagnosis, but to aid me. To illustrate:

I am called to a child patient who has fever, with evidence of intestinal trouble. I enquire condition of bowels. If told they purge, I ask the character of the actions. If bloody, or alvine, if attended with pain or bearing down, and upon these statements I place such confidence in differentiating diarrhoea or dysentery, or other inflammation of the bowels, as the symptoms before me will authorize, until I have the opportunity of observing for myself. I am called to a child in the height of fever, with all the symptoms of billious fever, I ask how long fever has continued; was it preceded with chill? has it gone off and

returned each day? and at same hour? and has each return of fever been preceded by chill? and upon the answers given I diagnose intermittent or remittent fever—to be sustained or changed by further observation.

These questions do not imply the ability of parent or nurse to diagnose the case. Medicine is a science which must be studied long and assiduously to be understood. None but the informed physician can diagnose latent diseases.

ALBERT G. CLOPTON, M. D.

Sworn and subscribed to before me at my office in Jefferson, Texas, this the thirtieth day of March, A. D. 1877.

[SEAL.]

W. E. ESTES,  
Notary Public,  
Marion County, Texas.

And the said Albert G. Clopton, the witness named in said commission, under his said oath, further answers the supplementary or subsequent, or second, cross-interrogatories, and says, in answer to the same, to wit:

1st Ans. to cross-int :

I have carefully read exhibit B.

2d Ans. to cross-int :

Never gave so large a dose to a child four years old ; as to whether it is proper, under any circumstance, is an open question. Dunglinson, in his dictionary, states that children will bear larger doses than adults. Rush has made the prescription of 10 grs. calemel and 10 grs. jalap, known as ten-and-ten, to adults, familiar to the profession. Modern physicians are in the habit of giving larger doses. I have known physicians to give calomel alone in as large doses as 20 grains, without any bad effect to be observed, to children 2 years old. Such doses might act as a poison

by decomposition if they come in contact with great excess of acid, as stated in interrogatory 1st. I have never met with a physician who said he had ever witnessed such effects; have never myself. Infant children are peculiarly exempt from salivation. I do not approve of such large doses; would fear irritating the bowels, and inviting severe diarrhœa. Rhubarb would modify its purgative action. The same dose, combined with the same quantity of rhubarb, would be milder in its action on the bowels. While I never gave it in large, heavy doses, I think the remedy judicious. A judicious dose was indicated in the case reported here. By judicious dose, I mean purgative dose.

West, 6th ed. p. 87.

Cowdrie on Dis. of Ch., 6th ed. p. 367.

Churchill on Diseases of Children.

3d Ans. to cross-int:

He was afflicted with inflammation of the brain, perhaps both membrane and substance (it may be), produced by malarial blood poison, and superinduced by exposure when playing in the rays of a July sun, while under this morbid influence. The causes expressed may be incorrect. Said case not being reported in any standard work, I can not give authority for my diagnosis, but refer to my answer and reference for this diagnosis, as given to a similar question.

4th Ans. to cross-int:

The ipecac was indicated—not only to empty the stomach of anything that might be acting as an irritant, but also as a revulsive. Vomiting is a common symptom in inflammation of the brain, and it is an exception to the rule when absent in such cases. In such a case it is good practice to induce it for the purpose above expressed. Ipecac is one of our best and most efficient emetics. No idea

is given in exhibit B as to quantity administered. We give it in emetic doses, swimming in warm water, as much as a tumblerful, to aid its action. As too much vomiting was not produced, and I find no active diarrhœa following, therefore I conclude it was a reasonable dose. It is well to remember that cold to the head when the brain is affected, does not act as it would upon a healthy brain. To the inflamed brain, it modifies local inflammation and equalizes nerve force. I think in such a case, if it had any effect, it would conduce to the emetic action of the ipecac.

5th Ans. to cross int :

I believe it was necessary to allay high nervous excitement. It would be much more gratifying, in such cases, not to need it for this purpose ; but its administration, when needed, adds to the chances of recovery. It has an anemic effect on the brain, and is a better hypnotic than any other known remedy.

West on Dis. of Children, 6th ed. p. 97.

6th Ans. to cross-int :

Ice is a proper remedy in such a case. The quantity must be regulated by the effect and symptoms, under the management of the attending physician.

West, 6th ed. p. 51.

Churchill, 1st ed. p. 147, No. 206.

7th Ans. to cross-int :

• Never administered quinine hypodermically, only as a dernier remedy, because it is apt to produce ulceration of the part punctured, and do not like its effects so well when administered in that way. There is high authority for its use hypodermically. When I use quinine by hypodermic injection, I prefer bromide quinine. No bad effects are reported in exhibits A or B which could have followed the use of quinine in this way. Whether I would have given

quinine or not in the case reported, would have depended upon whether I thought it was attended with malarial cause. If I so concluded, I should have given quinine freely in the remission.

8th Ans. to cross-int:

Do not see any evidence in exhibit B or A to justify the opinion that the child was frozen to death.

9th Ans. to cross-int:

Death has, in a few instances, followed the use of chloral hydrate in large doses. They are to be attributed to other causes acting with the drug; when it does, the symptoms are very plain to be discerned—especially if we know that the drug has been taken. It should be administered only by a physician. It has unhappily become a domestic remedy.

10th Ans. to cross-int:

The surface of the body rapidly becomes insensible to all external impressions, produced by the anæsthetic effect of cold upon the peripheral nerves. This insensibility extends until the nerve centers are invaded. A state of torpor ensues, followed by profound sleep. The vital functions gradually cease, and the individual finally dies. Extreme cold acts upon the nervous system as an anæsthetic, producing complete numbness of the surface of the body by reducing the sensibility of the terminal nerve branches, until torpor pervades the whole body, and deep sleep supervenes. There is no power in the individual to resist the approach of the insensibility over the system, until at last he yields involuntarily, to the sleep he cannot resist, and dies without pain or suffering, the victim of this powerful anæsthetic. In some cases, giddiness, vertigo, dimness of sight, tetanus, or paralysis, preceeds the fatal insensibility.

During the retreat of the French from Moscow, we are

told by the reports of the medical staff, that those who suffered and died from cold, first appeared intoxicated, complained of vertigo and dimness of vision, and sank into a state of lethargic stupor from which it was impossible to arouse them.

The local effect of extreme cold is to produce anæsthesia of the part to which it is applied, so that the surgeon's knife cuts without being felt. The post mortem appearance of the surface of the body of those who die of freezing, is not dark, tinged and swollen, but pale, collapsed and shrunken—the blood has been driven to the internal viscera.

ALBERT G. CLOPTON, M. D.

STATE OF TEXAS, }  
MARION COUNTY. }

I, Wm. E. Estes, a notary public in and for the county of Marion, do hereby certify that the facts by me stated as aforesaid, are true, and that the foregoing answers were by the said witness, Albert G. Clopton, sworn to and subscribed before.

Given under my hand and official seal, at  
my office, in Jefferson, Texas, this the  
[SEAL.] 30th day of March, A. D. 1877.

W. E. ESTES,  
Notary Public,  
Marion Co., Tex.

B. H. RAND, M. D.

[For interrogatories, see interrogatories to Dr. Wooten, page 192.]

[For plaintiff's exhibit A, 2d interrogatory, see page 162.]

[For cross-interrogatories, see cross-interrogatories to Dr. Wooten, page 197.]

[For defendant's exhibit B, see page 171.]

[For cross-interrogatories upon defendant's exhibit B, see page 176.]

[Notification and commission attached.]

STATE OF PENNSYLVANIA, } S. S.  
CITY AND COUNTY OF PHILADELPHIA. }

In the district court, Lamar county, spring term, 1877.

J. M. FORT            }  
          vs.                }  
R. PETERSON.        }

By authority of the commission directed to me, and interrogatories accompanying the same, which are hereto attached from the clerk of the district court, Lamar county, Texas, in the cause of James M. Fort plaintiff, vs. Richard Peterson defendant, now pending in said court, I caused to come before me, at the office of B. H. Rand, M.D., 1615 Summer street, Philadelphia, the witness, B. H. Rand, M.D., therein named, a resident of the city of Philadelphia, aged 49 years, who, being by me duly sworn to speak the truth, and nothing but the truth, in answer to the several interrogatories and cross-interrogatories in said case propounded to him, proceeded to answer the same as follows:

ANSWERS TO INTERROGATORIES.

1st Answer to interrogatory:

My name is B. Howard Rand; am 49 years of age; reside in in the city of Philadelphia; am a doctor of medicine; have been so 30 years.

2d Ans. to int :

I am a professor in the Jefferson medical college, and have been a professor in medical colleges since 1853.

3d Ans. to int :

I have examined exhibit A. I think it tended to diminish the symptoms described. It is what I should have given in such a case.

4th Ans. to int :

We know nothing of what changes take place after a medicine enters the stomach, except in case of a mild alkali, given to relieve an acid stomach. I never saw the symptoms described follow the administration of calomel.

5th Ans. to int :

It would have been beneficial.

6th Ans. to int :

It was perfectly proper.

7th Ans. to int :

Meningitis or cerebritis ; whether tubercular or epidemic cerebro-spinal meningitis, I am unable to say ; in non-medical terms, an inflammation of the membranes, or of the substance of the brain, which I cannot say from the statement before me.

8th Ans. to int :

At that stage of the case I could not say with certainty that it was disease of the brain, but I should have supposed it was had I been attending. The character of the convulsions was that due to cerebritis or meningitis.

9th Ans. to int :

I can not say ; not having seen the case.

10th Ans. to int :

Either meningitis or cerebritis.

11th Ans. to int :

I think the convulsions were centric. I can not say.

what organizations are more liable to this character of disease.

12th Ans. to int :

The prognosis is generally fatal, and if the patient should recover, it is usually with impaired hearing and general ill health.

13th Ans. to int :

Children are liable to convulsions in all eruptive diseases.

14th Ans. to int :

If it was centric or symptomatic, I consider the treatment as proper, as described in exhibit A. It would be designated as, I should say, evacuant or antiphlogistic. The remedies are reduced diet, emetics, and cold applications to the head in case of cerebritis or meningitis.

15th Ans. to int :

The treatment was eminently judicious.

16th Ans. to int :

I repeat my last answer.

17th Ans. to int :

The cold applications were judicious, and were made as I should have made them myself. Both applications of cold are antiphlogistic, and I can understand no difference between them. Ice in bags or bladders tied to the head, or when ice can not be obtained cold effusions to the head. The former would be preferable. My reasons are derived from my own practice of 30 years. The rules laid down in the standard works agree with my practice.

The time of application depends on circumstances, and must be left to the physician attending. By the authorities it is left to the judgment of the physician.

18th Ans. to int :

I should regard it as better than opium.

19th Ans. to int:

I should not regard it at all.

CROSS EXAMINATION.

To the cross-interrogatories the said witness answers as follows, to wit:

1st answer to cross-interrogatory:

I can only answer from my own experience—that I should have given it had I been there.

2d Ans. to cross-int:

My answer was founded on my own experience.

3d Ans. to cross-int:

My experience is, in the case of sick children suffering with diarrhoea, a mild cathartic is advantageous as removing from the stomach and bowels irritating substances. I would say that in case of cerebral inflammation, whether of the brain or of the membranes, it would be indicated in any case.

4th Ans. to cross-int:

I answer on my own experience.

5th Ans. to cross-int:

From my experience I do not think that they were reflex convulsions, because they did not disappear after the administration of an emetic and a cathartic.

6th Ans. to cross-int:

I answer from my experience. Most frequently convulsions in children are functional, due to indigestion or worms. My authority is my own experience.

7th Ans. to cross-int:

I can give only my own experience.

8th Ans. to cross-int:

Convulsions are common with children of that age. The percentage can be obtained, as far as Philadelphia is

concerned, from the board of health. My belief is, that it is about four per cent. of the total deaths of all. As to their being common, I speak from my own experience.

9th Ans. to cross-int :

Ice was the right remedy, and was used judiciously, in my opinion. It is impossible, without seeing the case, to say how long a child's head could be imbedded in ice, as described, without suspending the functions of the brain.

10th Ans. to cross-int :

My answers were based upon exhibit A, but the statements in exhibit B confirm me in the correctness of my answers. It was a case of meningitis or cerebritis.

11th Ans. to cross-int :

With the exceptions of the chloral, with which I have had no experience with children, I answer no. This, I say from my own experience.

The use of ice depends on the judgment of the physician in attendance. There can be no fixed rule.

12th Ans. to cross-int :

The application of ice must depend upon the judgment of the the physician in attendance. Not having any figure of the child's head to go by I can not make any diagram.

13th Ans. to cross int :

It is usual to continue cold applications to the head when the feet and hands are cold. The length of time must depend on the judgment of the physician. I simply answer from my own experience.

14th Ans. to cross int :

That depends on the judgment of the physician.

15th Ans. to cross-int :

Not at all ; the diminution of pulse and of temperature of the extremities may be due to the disease, which the ice is intended to counteract.

16th Ans. to cross-int :

I have before said I had no experience in the administration of chloral to children.

17th Ans. to cross-int :

I stated I would not regard the opinion of any one not a physician as to the nature and character of the disease ; but of course, every physician relies upon the non-medical attendants of his patient for the facts attending the disease.

To the second series of cross-interrogatories the said witness answers as follows :

1st Ans. to cross int :

Yes.

2d Ans. to cross-int :

It would depend entirely upon the proportion of calomel to rhubarb in the prescription.

3d Ans. to cross-int :

Disease of the brain. I speak from my experience.

4th Ans. to cross-int.

The ipecac was a proper medicine. The quantity was not excessive. The local application of ice or cold water would not interfere with its action.

5th Ans. to cross-int :

I have had no experience in the use of chloral hydrate with children.

6th Ans. to cross-int :

Ice was the proper remedy. I should have used the ice in a case, under my own supervision. The amount depends on the condition of the patient, and must be left to the judgment of the attending physician.

7th Ans. to cross-int :

I have never used it in my practice under those circumstances, and therefore can give no opinion about it.

8th Ans. to cross-int:

No.

9th Ans. to cross-int:

I have heard of deaths from chloral hydrate in overdose, but have never seen a case. It is not frequent.

10th Ans. to cross-int:

I have never seen a case, and therefore can not answer from my own experience.

11th Ans. to cross-int:

I do not know.

B. HOWARD RAND, M.D.

STATE OF PENNSYLVANIA, }  
CITY AND COUNTY OF PHILADELPHIA. } S. S.

I, Theodore D. Rand, a notary public of said state, in and for said city and county, authorized to take depositions, do certify that the said witness, B. Howard Rand, M.D., was by me first duly sworn true answers to make to the said interrogatories and cross-interrogatories; that his answers were reduced to writing by me in his presence, and were read over to him and subscribed by him, and sworn to in my presence, at his office, No. 1615 Summer street, in said city of Philadelphia, on the twenty-seventh day of March, A. D., 1877.

Witness my hand and notarial seal, the day and year aforesaid.

[SEAL.]

THEODORE D. RAND,

Notary Public,

State of Pennsylvania.

E. S. GAILLARD, M. D.

[For interrogatories, see interrogatories to Dr. Yandell, page 138.]

[For plaintiff's exhibit A, 3d interrogatory, see page 142.]

[For cross-interrogatories, see cross-interrogatories to Dr. Yandell, page 147.]

[Notification and commission attached.]

J. M. FORT            )  
                           vs.            )  
 R. PETERSON.        )

Suit pending in the district court of Lamar county.

Answers and depositions of E. S. Gaillard, M.D., a resident of city of Louisville, county of Jefferson, and state of Kentucky, to the accompanying interrogatories propounded to him in the above-entitled cause, taken before Chas. A. Graham, a notary public in and for said county and state, on the fourth day of February, 1878, at the residence of said witness, in accordance with the accompanying commission.

#### ANSWERS TO INTERROGATORIES.

Answers of the witness, E. S. Gaillard, M. D., to plaintiff's direct interrogatories.

1st Ans. to interrogatory :

My name is E. S. Gaillard; reside in Louisville, Kentucky; have been a physician 23 years.

2d Ans. to int :

I have been a general practitioner, not a specialist; I have been practicing for 23 years, and editing the Medical Journal for 12 years; was teacher in the Medical College of Virginia in 1867; teacher in the Kentucky School of Medicine, and the Louisville Medical College (two medical institutions in this city), since the spring of 1868.

3d Ans. to int :

I have examined said exhibit. The calomel and rhubarb were evidently inefficient in action. They constitute, when combined, a very favorite prescription with physicians, under similar circumstances; and the dose of each was entirely too small to produce harm to any child of that age, suffering from any known disease.

4th Ans. to int :

An erroneous and very frequent impression is, that it is converted into corrosive sublimate. Calomel so introduced, is frequently vomited as calomel, after it has remained over an hour in the stomach, and is frequently ejected by the bowels as calomel, when it has been subjected to, not only the gastric juice, but the juices of the entire intestinal track. So far from producing any irritating effect upon the membranes with which it comes in contact, large dose of it are frequently given to allay irritability of the stomach in yellow fever when black vomit has even become a conspicuous symptom. It has no bad effect coming in contact with the stomach and intestines. There were no symptoms reported that could be attributed to the effect of calomel, further than the discharge from the bowels, and this was chiefly due to the rhubarb in combination with the calomel.

5th Ans. to int :

No physician could state positively. The probabilities are, that the severity of the convulsions would have been much diminished.

6th Ans. to int :

It is a practice very common among the best physicians of America and Europe. Individually, I would regard it as eminently proper and judicious.

7th Ans. to int :

I regard the case as one of cerebro-spinal meningitis.

8th Ans. to int :

Up to that time the opinion of any physician would have necessarily been guarded: the character of the disease was chiefly manifested by the subsequent symptoms. There is no special name to be given; such movements and symptoms are usually termed convulsions. In this case the convulsions were, in my opinion, due to inflammation of the covering membranes of the brain and spinal cord, and would therefore be called centric in character.

9th Ans. to int :

In the absence of any eccentric cause—in the presence of fever, irregular in character, and the manifestation of convulsive movements at so early a period of the fever—the diagnosis would, in my judgment, indicate, as the cause of all of the symptoms, inflammation of the membranes of the spinal cord and brain.

10th Ans. to int :

The symptoms indicated at the early stage of the convulsions, would lead me to believe that at first there was simply congestion of the membranes mentioned, but that, very soon after, effusion, with secondary pressure, had taken place.

11th Ans. to int :

In my experience, I would not anticipate the occurrence of convulsions any sooner in a child of one temperament than of another. The old belief among physicians, and one still entertained, is, under the circumstances narrated, convulsions would sooner be manifested in a child of nervo-sanguine temperament, and this child seems, from the description, to have represented this form of temperament.

12th Ans. to int :

The mortality of this disease varies from 18 to 75 per cent, and has been known, during epidemics, to reach as high as 80 per cent. Paralysis of nerves of special sense, paralysis of sensation, and paralysis of motion, all constitute the sequence of this form of disease.

13th Ans. to int :

It is a most frequent manifestation of nervous disturbance in children suffering from this disease. What might be called ordinary nervousness in an adult, would, in children, be manifested in the form of convulsions.

14th Ans. to int :

Opinions as to the treatment of this disease, are as numerous as they are in any known disease. Many of the best practitioners or authorities consider it best to use the antiphlogistic treatment in the early stage of the disease, and to resort to stimulants, external and internal, as soon as the symptoms of compression are manifested. By the antiphlogistic treatment is meant, moderate purgation, occasional blood-letting, low diet, and, in inflammation of the brain or spinal cord, ice-bladder or ice-cap applied to the head, and the ice-bag along the spine.

15th Ans. to int :

I have examined the treatment reported, very carefully. I believe that all the best practitioners would regard it as judicious treatment. I so regard it myself.

16th Ans. to int :

In my judgment, the practice adopted by the attending physician, and sustained subsequently by the consulting physician, was judicious and correct.

17th Ans. to int :

The practice of applying cold applications to the head, with the symptoms reported, is one of the most common

and general in the practice of medicine, and in my judgment is entirely correct. The manner adopted is that usual with the profession. It is believed that ice or ice cold applications, or cold water poured from the height usual on the head, produces constriction of the blood vessels of the inflamed part, and so tends to cut short the inflammation. If ice can be obtained, it is better to endeavor to obtain the effect indicated, by the ice cap, or bladder or bag, but if it can not be obtained, the effect of cold water is increased by pouring it upon the head from the height usual, under the circumstances, two or three feet.

These cold applications, whether of ice or water, by affusion are usually continued until symptoms of effusion in and above the inflamed part are manifested.

18th Ans. to int :

While there is a prejudice with many physicians in regard to the use of hydrate of chloral under almost any circumstances, its best and most uniform effects are seen when the drug is given for the control of convulsive movements. In this case the quantity given was evidently too small to have accomplished any perceptibly bad effect.

19th Ans. to int :

I would regard it as valueless.

E. S. GAILLARD.

#### CROSS-EXAMINATION.

To the cross-interrogatories the said witness, E. S. Gaillard, answers as follows :

1st Ans. to cross-int :

The treatment would not have been materially different.

2d Ans. to cross-int :

Certainly.

3d Ans. to cross-int :

I have often given it to children of the age of the patient described in this case, in doses about similar to the doses that were given in this case ; have given it in almost every infantile disease. Its immediate effect is a stimulant ; the secondary effect is sporic and sedative. It is frequently adulterated, and under those circumstances very dangerous ; but when pure, I regard it as one of the safest medicines that can be given. It is composed of chloral and water. It frequently produces death if adulterated, and frequently produces convulsions if adulterated ; and whether adulterated or unadulterated, frequently produces delirium. With the exception of the convulsions produced by nux vomica and its preparations, I could not distinguish between the convulsions.

4th Ans. to cross-int :

My opinion is based entirely upon the description of the case given, and on assuming this to be correct, I have no hesitation in predicating upon it an entirely definite opinion.

5th Ans. to cross int :

In this case as in all others in a court of justice, I have carefully avoided the use of technical language, unless it was impossible to do otherwise.

6th Ans. to cross-int :

There is no definite rule laid down by any authority. Physicians are governed in such cases by general principles.

E. S. GAILLARD.

Sworn to and subscribed before me by E.  
S. Gaillard, on this the fourth day of  
February, 1878.

[SEAL.]

CHAS. A. GRAHAM,  
Notary Public,  
Jefferson Co., Ky.

STATE OF KENTUCKY, }  
 COUNTY OF JEFFERSON. }

I, Chas. A. Graham, a notary public for the county and state aforesaid, do hereby certify that the foregoing answers to the direct and cross-interrogatories of the witness, E. S. Gaillard, named in said interrogatories and the annexed commission, were made before me, and were sworn to and subscribed before me by said witness, E. S. Gaillard, M.D. In testimony whereof, I have herewith set my hand and seal, this the fourth day of February, 1878.

CHAS. A. GRAHAM,  
 Notary Public,  
 Jefferson Co., Ky.

Depositions of Miss Lizzie Long and Mrs. Laura Blair of Paris, Lamar county, Texas, were here read.

MISS LIZZIE LONG.

STATE OF TEXAS, }  
 COUNTY OF LAMAR. }

In the district court, Lamar county, spring term, 1877.

J. M. FORT }  
 vs. }  
 R. PETERSON. }

To RICHARD PETERSON, Esq.,

SIR:—You will take notice that five days after the service hereof, we will apply to Sam W. Williams, clerk of the district court of Lamar county, Texas, for a commission to take the depositions of Miss Lizzie Long and Mrs. Laura Blair, female witnesses for plaintiff, resident in the city of Paris, Lamar county, Texas, in response to the

accompanying interrogatories ; their answers thereto to be used by plaintiff as evidence on the trial of said cause, J. M. Fort vs. Richard Peterson, now pending in the district court of Lamar county, Texas.

MAXEY, LIGHTFOOT & GILL,  
 WRIGHT & McDONALD,  
 Attorneys for Plaintiff.

Interrogatories to be propounded to plaintiff's witnesses, Miss Lizzie Long and Mrs. Laura Blair, of Paris, Texas :

1st interrogatory :

State your names, age and place of residence and occupation,

2d interrogatory :

State what acquaintance you have with the family of R. Peterson, and with the members thereof. State what acquaintance you had with the child, Chas. D. Peterson, son of R. Peterson, in its life time.

3d interrogatory :

If, in answer to preceeding interrogatory, you say you know defendants family, and should further state that you knew Chas. D. Peterson in his life, then please state whether or not said Chas. D. Peterson be living or dead ; if dead, state whether or not you were present at or during his last illness ; if you were present, how many visits did you make during his last illness ? give the time of your arrival, the legth of your stay and the time of your leaving at each visit ; state whether or not you were there at any other time than in the day time ; if yea, at what time ?

4th interrogatory :

If, in answer to preceding interrogatory, you say you were with said child in its last illness during the night, then state what night ; state what you were doing there at night ; if you say you were sitting up, then state who, if

any one, sat up with you ; how long did you sit up ? who, if any one, came while you were sitting up ? state when you sat up, and at whose house ; how far from the room in which Chas. D. Peterson was sick during his last illness, were you when you sat up ?

5th interrogatory :

If you have stated that you sat up with said child in its last illness state who nursed and assisted in nursing said child during the time you were sitting up ; if you say that you sat up with said child during the night, please state how the child rested during the night while you were sitting up ; what applications, if any, did you make to the child's head during the latter part of the night ? were they warm or cold ? if cold, of what did they consist ? if you say you made applications of ice to the child's head, then state how was the ice used ; how was it applied ? if you say in bags, how many bags were used at a time ? what was their size ? state if you know of what they were made ; state if the use of ice was suspended at any time ; state particularly and fully how it acted.

6th interrogatory :

State if the attending physician was or was not up at any time during the night, while you were sitting up ; if yea, how many times and when ? state whether or not the defendant's family had retired.

7th interrogatory :

State whether or not you were with the child the day of its death ; if yea, when ? at what time, and how long ? state what applications were being made to the child's head at that time ; if you say cold applications were being made, state what kind, how long and in what manner ; if you say ice was being applied in bags, state how many bags were being used at a time ; state their size ? state if you know of what they were made ; state if you know what directions were given by the attending physician as to the manner

of applying the bags of ice to the child's head; if yea, what directions? state fully; state what arrangements, if any, were made for drawing off the drip or melting water from the ice; state by whom and how such arrangements, if any, were made; for what purpose?

8th interrogatory :

If, in answer to the preceding interrogatory, you say you were present on the 31st day of July, 1876, the day of the death of said child, then state what blisters, if any, were applied to said child; if any, how many, and when applied? state whether or not any orders were given by the attending physician to apply ice to the blistered surface; state whether any ice was or was not re-applied.

9th interrogatory :

Please state the condition in which the child's body was kept while you were with it; what kind and how many wrappings were used? was the child's body kept warm or cold? was it kept wet or dry? in what condition was the bed on which the child lay kept, wet or cold; state which; state fully the case and means and precautions used in these particulars, and by whom directed?

10th interrogatory :

State what applications, if any, were made to said child's feet; how made, if any, and how often? state what applications, if any, were made to said child's bowels and stomach; how made, if any, and how often? state fully and particularly.

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,  
Attorneys for Plaintiff.

I hereby waive service of within direct interrogatories, reserving all legal exceptions to form and substance.

R. PETERSON, Defendant.

STATE OF TEXAS, }  
 COUNTY OF LAMAR. }

I, S. W. Williams, clerk of the district court of Lamar county, Texas, do hereby certify that the foregoing contains a true and direct copy of direct interrogatories propounded to the said witnesses in the above-entitled cause, now on file in my office.

Given under my hand and official seal at office, in the city of Paris, this 12th day of April, A. D. 1877.

[SEAL.]

S. W. WILLIAMS,  
 Clerk District Court,  
 Lamar Co., Texas.  
 S. F. ALSTON,  
 Deputy Clerk.

Commission attached.

J. M. FORT }  
 vs. }  
 R. PETERSON. }

Suit pending in the district court, Lamar county, Texas.

Answers and deposition of Miss Lizzie Long and Mrs. Laura Blair, to the accompanying interrogatories propounded to them in the above-entitled cause, taken before B. J. Baldwin, jr., notary public in and for Lamar county, Texas, in accordance with the accompanying commission.

ANSWERS TO INTERROGATORIES.

1st Answer to interrogatory:

My name is Lizzie Long; my age is 19; my residence is Paris, Texas, Birmingham street; I have none.

2d Ans. to int:

Am well acquainted with defendant's family, and each

member of it; knew Charles D. Peterson during his lifetime.

3d Ans. to int :

Charles D. Peterson is dead; I was present during his last illness; do not remember how often; visited him frequently during his last illness; can not give the exact time of my arrivals nor the times of my leaving, nor do I remember how long I stayed at any of these visits; was there at night during his illness, as well as in the day; I was at defendant's house the entire night before Charles D. Peterson died; retired about 9 o'clock that night; I had watched and nursed him from 2 a. m. until after daylight.

4th Ans. to int :

Was with him the night before he died; was there sitting up with him and assisting in nursing him; Miss Mariam Fort sat up with me; I sat up from 2 a. m. until after daylight; Mrs. Peterson, Charlie's mother, came in while I was sitting up, as well as I recollect, when called for by him; it was the night before Charlie died, which was the night of the 30th of July, A. D. 1876, at the house of R. Peterson; it was in the same room where Charles D. Peterson was sick, and the same room in which he died.

5th Ans. to int :

I have already stated that Miss Fort sat up with me, and assisted in nursing him. The child did not rest well, especially when there was little ice on his head; the applications we made to the child's head, were cold; they consisted of ice; it was beaten up and applied folded up in napkins; two napkins were used at a time; they were folded about the size of a man's hand; we used napkins during the night, and two rubber bags were made next morning, about 5 or 6 inches long, as well as I remember, which were used for ice instead of the napkins. The ap-

plications of ice were lessened during the night, owing to its scarcity, but do not remember that it was entirely suspended; the child was very restless, and we could scarcely keep him in bed during the time the applications of ice were so small.

6th Ans. to int :

The attending physician was up several times during the time we sat up with the child; do not remember how many times, but I know he was up several times; defendant's family had retired.

7th Ans. to int :

Was with the child the day of his death; was there most of the day; applications of ice were made to his head, in rubber sacks; two bags were used at a time; they were 5 or 6 inches long, and about 3 or 4 inches wide, as well as I can recollect; they were made of a child's rubber bib; do not know what directions were given by the attending physician about applying the ice-bags, except to move them occasionally; there was an oil-cloth under the child to draw off the water from the melting ice; it was put there by the direction of the attending physician, for the purpose of drawing the water off as the ice melted.

8th Ans. to int :

Do not remember but one, which was applied to the back of his head, but I don't think they succeeded in blistering it; don't know when it was applied; do not remember what orders were given by the physician to apply ice to the blistered surface; do not know.

9th Ans. to int :

The child's body was kept warm; we rubbed his limbs with mustard; we used a good many wrappings, but I do not remember what kind; we kept it warm, as far as I knew; as far as I know, it was kept dry; and the bed was dry, as far as I know; the oil-cloth was used to keep the

bed dry, and was ordered to be used by the physician for that purpose.

10th Ans. to int :

There were warm irons or rocks applied to his feet; don't remember how often; do not remember any applications that were made to his stomach and bowels.

LIZZIE LONG.

MRS. LAURA BLAIR.

Answers of witness, Mrs. Laura Blair, to before-mentioned interrogatories.

1st Ans. to interrogatory :

My name is Laura Blair; am 34 years of age; reside on Birmingham street, Paris, Texas.

2d Ans. to int :

Am acquainted with the family of R. Peterson, and I know each member of it; knew Charles D. Peterson in his lifetime.

3d Ans. to int :

Charles D. Peterson is dead; I was present during his last illness; made four or five visits to see him during his last illness; my first visit was in the afternoon on Sunday, which was the day before he died, and remained about two, to two and one half hours; I returned about 8 or 9 p. m., and remained until after 1 o'clock that night; was there again in the forenoon, and also in the afternoon of the next day, but don't remember how long I stayed, nor when I left; was there at night.

4th Ans. to int :

I was with him the night before his death, July 30, 1876; was waiting on him and sitting up with him; sat up from 8 or 9 p. m. until about 1; Mrs. Emma Pierson was with me all the time—Mr. and Mrs. Peterson most of the time;

Dr. Gibson called, and Dr. was in the room all the time, but was lying down part of the time; do not remember any one coming in during the night except Dr. Gibson and Miss Mollie Peterson; I sat up in the room where the sick child was, at the house of R. Peterson.

5th Ans. to int :

Mrs. Emma Pierson assisted me in nursing said child, as did also Mr. and Mrs. Peterson; he rested tolerably well the first part of the night, but grew more restless as the night advanced; cold applications were made, and consisted of ice; it was beaten up and applied in napkins; there were two napkins, not quite as large as a man's hand when applied, used at once; do not remember, was there, however, before the ice was used; he was quite restless; as soon as the use of ice was commenced he became more quiet, and his breathing became better.

6th Ans. to int :

He was; I don't remember how many times, but he was up frequently; do not remember whether or not defendant's family had retired up to the time I left.

7th Ans. to int :

I was; was with him about an hour or hour and one-half in the forenoon, and a few minutes in the afternoon; cold applications were made to the child's head at that time; the ice was then applied in two rubber sacks tied with strings; these sacks were about 4 inches wide and 6 inches long, as well as I can guess; they were made of rubber cloth; the attending physician directed that they should be frequently moved, and not allowed to remain in one place long at a time; there was a piece of oil-cloth placed under the head and shoulders of the child, and inclined so that the water would run off as the ice melted; this was arranged by Dr. Fort, to take off the water as the ice melted.

8th Ans. to int :

Blisters were applied, but I was not present when they were applied; and I do not know when.

9th Ans. to int :

Every effort was made to keep it warm; quite a number of wrappings were used; part were cotton and part were woolen; do not know that it was always warm, but every effort was made to keep it so; his clothing may have been wet around his neck, but on his body it was kept dry; as far as I knew, the bed was kept dry where his body laid, but it was wet on the part where the water was drained from his head; have already stated the means and precautions that were used, all of which were directed by Dr. Fort.

10th Ans. to int :

His feet and arms were frequently rubbed with dry mustard; warm woolen cloths were frequently applied to his stomach and bowels in the forenoon of the day of his death; do not know anything about what took place in the afternoon.

LAURA BLAIR.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

I, B. J. Baldwin, jr., notary public in and for Lamar county, Texas, do hereby certify that the above and foregoing answers of witnesses, Miss Lizzie Long and Mrs. Laura Blair, before named, were made before me, and were sworn to and subscribed before me by said witnesses, respectively.

Witness my hand, officially, and seal of office, this the 16th day of April, A. D. 1877, at Paris, Texas.

[SEAL.]

B. J. BALDWIN, Jr.,

Notary Public,

Lamar Co., Texas.

MRS. FANNIE DOUGLAS.

STATE OF TEXAS, }  
 COUNTY OF LAMAR. }

In the district court, Lamar county, spring term, 1877.

J. M. FORT }  
 vs. }  
 R. PETERSON. }

To RICHARD PETERSON, Esq.,

SIR:—You will take notice that five days after the service hereof, we will apply to Sam W. Williams, clerk of the district court of Lamar county, Texas, for a commission to take the deposition of Mrs. Fannie Douglas, a resident of the county of Ellis, said state, a female witness for plaintiff, in response to the accompanying interrogatories; her answers thereto to be used by plaintiff as evidence on the trial of said cause, J. M. Fort vs. Richard Peterson, now pending in the district court of Lamar county, Texas.

MAXEY, LIGHTFOOT & GILL,  
 WRIGHT & McDONALD,  
 Attorneys for Plaintiff.

INTERROGATORIES.

Interrogatories to be propounded to plaintiff's witness,  
 Mrs. Fannie Douglas, of Ell's county, Texas.

1st interrogatory:

State your name, age and place of residence.

2d interrogatory:

State if you are acquainted with the parties to this suit of J. M. Fort vs. R. Peterson. If yea, when and where did you know them? State what acquaintance you have

now, or have had, with the families of the parties to this suit. State when and where, and with which members of, said families.

3d interrogatory :

State whether or not you have ever been in the city of Paris, Lamar county, Texas. If yea, state where you were on or about the 30th or 31st of July, 1876.

4th interrogatory :

If, in answer to interrogatory 2d, you state that you are acquainted with or know R. Peterson, the defendant, or his family, then please state what acquaintance you had, if any, with one Charles D. Peterson, a child of said R. Peterson. State if said Charles D. Peterson be now living or dead. State if you know when and where he died.

5th interrogatory :

If, in answer to the preceeding interrogatory, you say that Charles D. Peterson died in Paris, Texas, at the residence of the said Richard Peterson, on or about July 31st, 1876, then please state whether or not you was present during the last sickness of said Charles D. Peterson. If yea, state when you first came where said Charles D. Peterson was sick? how long did you remain? when did you leave? and if you made more than one visit to the said Charles D. Peterson during his last sickness; please give the time when you came on each visit, how long you stayed, and the time of your leaving at each visit.

6th interrogatory :

If, in answer to the preceeding interrogatory, you say you were present during the last illness of said Charles D. Peterson, please state if you know what wrappings and coverings were used about said child; what kinds, and the quantities? State what care and precautions were used in regard to keeping up the wrappings, and in regard to keeping the body of said Charles D. Peterson warm and

comfortable, if any. State by whose directions and request such care and precautions were used, if you know. State whether or not any applications were made to the body of said Charles D. Peterson, and to his extremities. If yea, state whether they were warm or cold. If warm, what kind, and how made? and how kept up? State fully.

7th interrogatory :

Please state, if you know, whether any applications were made to the head of the said Charles D. Peterson. If yea, were they warm or cold? If cold, what kind? If you say ice was applied to the head, please state how, by what means? In what was the ice placed? If you say in sacks or bags, please say what kind of bags; of what were they made? and how large were they? and how many were placed upon said child's head at once? and upon what portion of the head? How was the ice fixed in the sacks? how long were the bags kept in one position upon the head? State what directions, if any, were given in regard to changing and shifting the bags from one position to another. If any, by whom were they given?

8th interrogatory :

Please state whether or not any blisters were applied to the person of said Charles D. Peterson. If yea, to what portion of his person? If you say a blister was applied to the back part of the head, then please state how high up on the head said blister extended. Please state whether or not said blister so applied, was allowed to come in contact with the cold applications of ice. If yea, to what extent, and how much, if any, did the cold applications cover the blister? State how low down upon the back of the head were the ice-bags allowed to be placed?

9th interrogatory :

State how closely you stayed by said Charles D. Peter-

son while you was with him. State who was the principal nurse of said Charles D. Peterson while you were with him? What were the physician's directions in regard to covering, and warm applications to the body and cold applications to the head, and in regard to their use?

10th interrogatory:

State whether or not any arrangements or provisions were made for draining off the meltings of the ice. If yea, state what provisions. State whether or not the meltings from the ice were allowed to come in contact with the body of the said Charles D. Peterson. If yea, how much? If not, how was it prevented? If you say that provision was made for draining off the water from the melting of the ice, please state who made them and fixed the arrangements. State what were the directions in regard to allowing the meltings of the ice to come in contact with said Charles D. Peterson's body. By whom given?

MAXEY, LIGHTFOOT & GILL,  
WRIGHT & McDONALD,  
Attorneys for Plaintiff.

I hereby waive service of within direct interrogatories, reserving all legal exceptions to form and substance.

R. PETERSON, Defendant.

Paris, Texas, April 3d, 1877.

CROSS EXAMINATION.

Cross-interrogatories to be propounded to Mrs. Fannie Douglas, plaintiff's witness in above suit.

1st cross-interrogatory:

If you state, in reply to foregoing interrogatory 7th, that there were four parcels of ice to the child's head at once, please state how many were in bags, and how many were in cloths. Please state whether or not you observed

the cloths or bags of ice, one on either side of the child's neck, or lower part of the head, at the same time that two bags of ice were on the upper part of his head.

2d cross-interrogatory :

If you state, in reply to direct interrogatory 10th, that there was an oil-cloth on the pillow under the head of said child, state whether or not this oil-cloth did not act as a conductor to carry the melted ice off the pillow down into the bed, and immediately under the body of the sick child.

R. PETERSON, Defendant.

STATE OF TEXAS, }  
COUNTY OF LAMAR. }

I, S. W. Williams, clerk of the district court of Lamar county, Texas, do hereby certify that the foregoing contains a true and direct copy of direct interrogatories propounded to the said witnesses in the above-entitled cause, now on file in my office.

Given under my hand and official, seal at office, in the city of Paris, this 6th day of April, A. D. 1877.

[SEAL.]

S. W. WILLIAMS,  
Clerk District Court,  
Lamar Co., Texas.  
S. F. ALSTON,  
Deputy Clerk.

Commission attached.

STATE OF TEXAS, }  
COUNTY OF ELLIS. }

Before me, B. P. MacKay, a notary public in and for said county and state aforesaid, this day personally appeared Mrs. Fannie Douglas, who, after being duly sworn to make true answers to all interrogatories propounded to

her in a certain cause now pending in the district court of Lamar county, wherein J. M. Fort is plaintiff and Richard Peterson is defendant—said interrogatories having come to me under the seal of the district court of Lamar county, S. W. Williams clerk—answers as follows :

ANSWERS TO INTERROGATORIES.

1st Ans. to interrogatory :

My name is Fannie Douglas ; am 34 years of age ; reside in Ellis county, Texas.

2d Ans. to int :

I am acquainted with the parties to the suit ; knew them at Paris, Lamar county, Texas, for some years past ; have been well acquainted with both parties for the last six years, and intimately acquainted with Mr. Peterson's family ; have been well acquainted with every member of both families at Paris, Lamar county, for the past six years.

3d Ans. to int :

I have been in the city of Paris, Lamar county, Texas, and about the 30th and 31st days of July, 1876, was at the house of Richard Peterson, in Paris, Lamar county, Texas.

4th Ans. to int :

I knew—Charles D. Peterson, son of Richard Peterson, all his life, from the time he was born ; he is now dead ; he died about the very last day of July, 1876, at the residence of Richard Peterson, in Paris, Lamar county, Texas.

5th Ans. to int :

I was present a portion of the time during the last sickness of Charles D. Peterson ; went there in the early part of the forenoon ; remained until late in the afternoon, and left about an hour or an hour and a half before sunset ; I only made the one visit during his sickness, and that was on Monday.

6th Ans. to int :

I have a confused recollection that there were some coverings over the body, but cannot state what they were; do not remember what directions were given about the wrappings, but I do remember the body of Charles D. Persons was frequently rubbed with mustard; J. M. Fort gave all the directions which were given; the body was rubbed with mustard, also his hands and feet, and hot applications were put to his feet, but I have forgotten what they were.

7th Ans. to int :

Applications were made to the head of the said Charles Peterson; they were cold; they were ice applications, in sacks; most of the sacks were rubber, about six inches long and about three inches wide; do recollect that there was one cloth sack used, but do not recollect the size of it; at least three sacks were placed on the child's head at a time; they were placed upon the top and sides of the head; the ice in the sacks were beaten up and then tied up in the sacks; do not remember how long the sacks were kept in one position, but not long—but a short time; Dr. Fort directed that the sacks must not remain in one position long; that they must be changed frequently; the directions were given by Dr. Fort.

8th Ans. to int :

Blisters were applied to the person of Charles D. Peterson, to the back of the neck and lower portion of the head; do not think it came up as high as the top of his ears; to the best of my recollection, I do not think the blister came in contact with the ice; do not remember exactly how far the ice extended down the back part of the head.

9th Ans. to int :

I was at the bedside of Charles D. Peterson most of the time whilst present with him; to the best of my recollection, Mr. Peterson was the principal nurse while I was present; I know that the physician's directions were,

that cold applications should be made to the head and warm applications to the body and feet, and that the applications were kept up.

10th Ans. to int:

Provisions were made for draining off the meltings of the ice; an oil cloth was placed under his head and neck, and rolled with the intention of draining off the melting of the ice; I think the melting of the ice did come in contact with his body to some extent; do not know how much; to the best of my recollection, Dr. Fort and Mr. Peterson made the arrangements for draining the melting ice, but I am not positive: did not hear any special directions in regard to keeping the meltings from the body, but am satisfied that such directions were given.

FANNIE DOUGLAS.

CROSS-EXAMINATION.

To the cross-interrogatories, the said witness answers as follows;

1st answer to cross-interrogatory:

I do not remember of but one cloth sack of ice; the others were rubber; to the best of my recollection, there was one sack on each side of the head and one larger one on top of the head, which came partly over the back of the head.

2d Ans. to cross-int:

I do not know that the oil-cloth acted as a conductor to carry the water under the child, but I do know that it did not effectually prevent some of the water from coming in contact with the person

I certify that the foregoing answers to the interrogatories propounded, are true and correct to the best of my knowledge and recollection.

FANNIE DOUGLAS.

STATE OF TEXAS, }  
 COUNTY OF ELLIS. }

I hereby certify that the above and foregoing answers to the interrogatories propounded in the cause now pending in the district court of Lamar county, Texas; wherein J. M. Fort is plaintiff and Richard Peterson is defendant, were made, sworn to and subscribed in my presence by Mrs. Fannie Douglas, who is to me well known.

Witness my official seal and signature, at  
 Ferris, on this the 16th day of April, A.  
 D. 1877.

[SEAL.]

B. P. MACKAY,  
 Notary Public,  
 Ellis Co., Texas.

#### EXAMINATION.

Dr. J. M. Fort sworn—Am plaintiff in the case; have practiced in Peterson's family since 1868; lived opposite him; in 1876 Peterson went to Philadelphia to the Centennial and took his child with him; children north that summer were dying to an alarming degree; the weather was very hot; water stood under his house while he was absent; he had it drained after his return; was called in to see his child on Sunday, and knowing the condition of the house during his absence, enquired his condition; the year previous was in St. Louis, and the child was then attended by a homeopathic physician; had no recollection of being informed of a copious action upon its bowels. I prescribed 4 or 5 grains of each calomel and rhubarb combined, and gave it to Mr. Peterson at my residence; about an hour later I heard crying and screaming at Mr. Peterson's house and some one calling for me; I ran over immediately and found the child in a severe convulsion; I called for water in which to bathe him, and it being

brought in a vessel too small to give him a general bath, I used it for a foot bath; I also poured cold water upon the child's head, and as soon as it could be prepared I administered an enema of warm soap-suds, which produced two or three evacuations from the child's bowels; the convulsion lasted twenty or thirty minutes (as I thought); in a very short time, not exceeding half a minute, the child was taken with another convulsion; I again poured cold water upon his head and renewed the foot bath, having added mustard thereto; after the subsidence of this, the second convulsion, I gave an emetic of ipecac, which threw off the contents of the stomach; during the existence of the third convulsion I asked Mr. Peterson if he thought the child had been exposed to the contagion of any of the eruptive fevers while he was absent at the north; at this time I was at a loss to determine the seat of the disease; during the fourth convulsion I applied ice to his head, and continuously administered chloroform by inhalation; I continued the occasional inhalation of chloroform for some twenty or thirty minutes after the subsidence of the convulsion; the convulsions lasted altogether about an hour or an hour and a half; during the time I was pouring cold water on the child's head, I kept my fingers on the child's pulse to see that it did not produce too great a shock; after the subsidence of the convulsions, from the symptoms then present, I was very solicitous and alarmed about the child's condition, and after some little time I became satisfied that it was a case of centric or symptomatic convulsions; his pulse at that time was so fast that I could not count it—do not think it was less than 175; there were frequent rushes of blood to the head; respiration was quick, loud and difficult—could be heard distinctly at the yard gate. From the appearance of the child and the symptoms, I was satisfied that the brain was seriously effected; in fact, I did not think the child would live but a few hours.

I then took Mr. Peterson aside and told him that his

child was dangerously ill, and unless there was a very great change he would not live until 10 o'clock or midnight. I do not remember which hour I said.

He did not suggest calling in a consulting physician, and I sent, of my own accord, for Dr. Gibson, the nearest physician.

At that time, I was president of the Lamar County Medical Association, and wrote a report of the case with a view of reading it to that association, but at the first meeting of the association there were not enough members present to form a quorum—Dr. Dailey and myself being the only members present. Before the next meeting the second publication of Mr Peterson appeared, and I was advised by my friends and attorneys not to read the report.

Before Dr. Gibson came, I gave the child about a half grain of quinine by hypodermical injection, and administered by the mouth 3 grains of hydrate of chloral, dissolved in a teaspoonful of simple syrup.

When Dr. Gibson came he examined the child for a half hour or more, and gave it as his opinion that he would live but a few hours. He agreed with me in the opinion that it was a case of centric convulsions, and endorsed the treatment that I had pursued up to that time. We also agreed upon a course of treatment to be pursued during the night, should the child live so long.

It was about sundown when Dr Gibson made his first visit. I remained with the child, and Dr. Gibson called again about 8 or 9 o'clock that night. I remained in the room with the child all the time, and at 2 o'clock I laid down on a bed in the same room. Was called up several times during the night by the nurses.

Ice was so scarce in the town that it could not be bought, but enough was taken from one of the saloon keepers Sunday evening, by the young men, whom I sent

for it, to last until next morning, when it could be obtained from Sherman.

Mercury and quinine were given during the night, and also occasional doses of hydrate of chloral.

Monday morning there was a slight remission in his fever for a short time, and he was apparently better. (This delusive appearance was illustrated by the condition of a swollen and inflamed hand, with and without fever).

During the remission Dr. Gibson and myself, realizing that the child was really no better, shaved the back of the head and applied a blister, and lessened the cold applications to the head. An oil-cloth was adjusted under his head upon the pillow to prevent the bed from becoming wet.

About 7 or 8 o'clock in the morning (Monday), had dry clothes put on the child, and his legs and arms rubbed with dry mustard. The difference in the degree of temperature of the two sides of the body was very marked. The child was in a state of delirium when he uttered many of the exclamations reported by Mr. Peterson in his publications. They were all about familiar things, such as: "get out of my swing," and frequently called "mama" and "Charity," the name of the cook.

Some one suggested to me during the day (Monday), the propriety of giving the child a warm bath. I reluctantly consented, that the effort might be made. The effort was made, but the child was so nervous that he had to be put back on the bed. The convulsions had left the child in such a state of nervous agitation, that it was exceedingly difficult and required the most skillful treatment to prevent a return of the convulsions. Our role of treatment was to prevent a return of the convulsions, as we did not want the family to see him die in convulsions. I believe the child would have been thrown in convulsions had they persisted in the effort of giving him a warm bath.

After shaving the back of his head tincture of iodine

was first applied, and then a blister to the nape of the neck and extending up the back of the head as high as the top of the ears. Ice in rubber bags was applied to the head, and the disease clearly demanded it; besides being a remedial agent, it assisted the other remedies used in preventing a return of the convulsions. The child's head was very hot all the time; and our books lay down no plainer case of meningitis than the symptoms of this case indicated.

It is difficult to determine whether the inflammation is confined to the membranes only, or involves the brain also. I am of the opinion that both are involved in all these cases, but the treatment in either case is the same.

I regarded the child as in a modified state of convulsions all the time. Did not take the temperature of the child, as I had broken my thermometer a few days before, but am satisfied it ran up to 105 or 106 degrees. The surface, except extremities, was warm.

Was attached to the child, who was frequently at my house with my family. When I announced to the father the condition of the child, I was very anxious and uneasy about him. The effect produced by the first convulsions upon the child, created serious alarm in my mind, as to the disease.

My announcement to Mr. Peterson of the child's condition, was to have a consulting physician, as I regarded the patient in a most dangerous condition, and feared its early death.

#### CROSS-EXAMINATION.

No general custom to notify the family of the patient to send for consulting physician.

In the exercise of this custom I am governed, more or less, by the family in which the practice occurs.

In sympathetic convulsions, the symptoms are not the same as those related. In the present case, for instance,

the peculiar expressionless countenance, difference in pulse and temperature on different sides of the body, persistent blindness, etc.

Examined the contents of the discharge from the bowels of the patient, after injection, and found no undigested food, or other irritating substance.

A physician is the best judge of the temperature of the human body.

Used chloroform cautiously (by inhalation), during the last convulsion, which lasted 20 or 30 minutes.

After the cessation of the convulsions, the face of the child had the appearance of death, or as if it had been cut out of stone.

I laid down about 2 a. m. Monday morning; was aroused by Miss Lizzie Long, saying she believed the child was dying. I did not find the child dying, but very restless.

Cold applications to the head were kept up during the night.

Every effort was made to keep the child's body dry.

Have been to Louisville since the institution of this suit, and have seen Drs. Yandell and Gaillard, and talked to them about this case.

Have not seen either Drs. Clopton, Wooten or Rand. Have written to them to give their depositions in the case. Reiterate and verify the statement of facts upon which the depositions of Drs. Yandell, Gaillard, Wooten, Clopton and Rand were given.

Any non-professional person could see the death-like appearance of the patient after the convulsions and during the remission of fever next morning.

Have never reported the case to the medical association for the reason before alleged.

I treated the case according to the science of to-day—as laid down in the standard medical authorities.

Directions, as far as I know, were carried out.

I regard the case as meningitis—a case of simple meningitis.

RE-DIRECT-EXAMINATION.

Am a practicing physician; have been practicing since 1851.

Before these publications I was doing the largest practice that I ever did, since my removal to Paris. After these publications appeared, my practice decreased very much, and I know of no other cause for the decline.

RE-CROSS-EXAMINATION.

Have had other interests, but practicing medicine has engaged my entire attention.

My farms have been rented.

At one time had money invested in mercantile houses.

Have practiced medicine in Paris since 1868.

About half of my practice is in the country.

My best paying practice, is office practice, which was seriously damaged.

In 1876 I was a delegate to the American Medical Association, which met at Louisville, Kentucky.\*

Do not think the absence referred to would damage my practice, only for the time I was away.

Had comparatively no practice for eighteen months or more, after the appearance of the publications, but it is now improving.

Made no trip to Bowie county in 1876, except when on my way to Louisville.

Was absent at Louisville only about three weeks.

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\*This was a mistake; it was in 1875 that I attended a meeting of the American Medical Association at Louisville, Ky. It was in January, 1877, that I went to Louisville, Ky., and there saw Drs. Yandell and Gaillard.

Don't know whether or not the practice of medicine is as large now as in 1876.

#### SECOND RE-EXAMINATION.

Drs. Gibson and Johnson were practicing in 1876, but both have now retired on account of ill health.

After the publications in the Common Sense, I could go no where without hearing the matter spoken of, and my practice and reputation as a physician were seriously damaged.

#### EXAMINATION.

Dr. Gibson sworn:

Saw patient—4-year-old son of defendant—about 6 p. m. July 30th, 1876, in consultation with D. Fort, the attending physician. I have been a practicing physician in this town and county since 1876. Without consultation with Dr. Fort, I made an examination of the child, physically, and rationally and by questioning the mother, I diagnosed, by the direct method, and also indirectly by way of exclusion, acute meningitis; believed the membranes of the brain were seriously invaded by the inflammatory action of the substance of the brain; upon subsequent conference with Dr. Fort, our opinions concurred as to the nature of the cause; we agreed upon the treatment for the night. With a brief interval, I was with the child until 12 or 12:30 that night. I approved fully all that Dr. Fort had done previous to my being called in consultation, as well as we jointly did afterward.

Before consulting with Dr. Fort, I told Peterson that his child would die. Beyond all expectation, the child was living when I returned next morning at about 7:30 or 8 o'clock. Dr. Fort and myself agreed upon treatment until I could return, being necessarily absent until about 12 m. Monday, July 1876, when I found the child continuing to succumb. In the morning visit the child had been ap-

parently better, but only from a remission of the febrile symptoms. The remission lasted for a short time only.

I positively state that I have no recollection of there being more than two sacks of ice (pounded) applied to the child's head at any one time whilst I was present, and that said sacks were about 4 inches long and 2 1-2 inches deep; that I moved them from place to place on the child's head, perhaps four times during the fore part of Sunday night. Instructions were positively given by Dr. Fort and myself, to the mother and nurses, to frequently move the ice-sacks from place to place as the scalp immediately under the sacks should get cool, to points where the scalp was hottest.

As the internal medical treatment is fully detailed in Dr. Fort's statement of the case, in which I fully concur, I deem it unnecessary to repeat it in detail.

#### EXAMINATION.

Dr. Johnson sworn :

Am a physician; have been for the last 18 years, and have practiced until the last two years; have heard the statement of Dr. Fort, and his treatment of the case, and I heartily approve of the treatment as eminently correct.

#### CROSS-EXAMINATION.

The symptoms of centric and eccentric convulsions being about the same, the only way to determine between the two is by the protracted effects of the spasm upon the system. Ordinary symptoms of meningitis are, headache, want of appetite, blindness, restlessness, fever, spasms, delirium, etc. Contraction of the spinal cord is a strong symptom of cerebro-spinal meningitis. The usual course of acute meningitis is from one to four days. My views of the cause of the lucid moment, of the patient on Monday morning, was the result of an abatement of the fever, and a momentary rally of strength, which is often to be

noticed in brain affections, which, for the moment, presents a favorable condition of the patient, only to give way to a more depressed condition and the collapse of the patient.

The convulsions being violent, a large dose of quinine was proper, to prevent the recurrence of the spasm, and the amount prescribed I think was proper. Under the hypothesis presented by defendant, I think the use of ice was highly proper. I never had just such a case. I have used ice from day to day upon children.

#### EXAMINATION.

Dr. Hooks sworn :

I endorse the principles of treatment instituted in the case, by Dr. Fort, throughout. From his statement, I think D. Fort's idea was correct—that is, that the disease was hyperæmia of the brain. Meningitis or acute meningitis may often be ushered in by convulsions. My statement is not an exception to the rule, though they may not be constant symptoms at first. Vomiting is a frequent symptom in meningitis. There is often a prodromic stage of lassitude, irritability and slight fever. A child may die in the first few hours of disease from convulsions; I believe authors give average duration of life from 2 to 11 days; do not know of a case, within my own experience, dying within 28 hours. Nervous diseases, as this was, sometimes exhibit symptoms of the character described in the statement.

The evidence shows that quinine was given; it depends somewhat upon the amount hypodermically injected; if a grain, or 1 1-2 grains each time, and 6 grains in the powder, all within 12 hours, I think there was enough to meet the indications in this case. The symptoms certainly indicated quinine; do not think the child would have been benefited by more quinine. It is not usual for conscious-

ness, as in this case, to return, though it sometimes does. Convulsions are frequent in diseases of children in this country. The ordinary sympathetic convulsion is of shortest duration; its effects soon pass off; it leaves less nervous symptoms, and they are soon recovered from. Immediately after a convulsion, either centric or eccentric, we may have many symptoms that are alike. The ordinary treatment is warm baths, cold applications to the head, evacuants for the stomach and bowels, antispasmodics, etc. There is an increased flow of blood to the brain, a congestion of the brain, in convulsions.

The rule of physicians with regard to consultations, is a good deal owing to circumstances—the family, the nature of the case, etc. I generally inform the head of the family of my fears as to the termination of the case, and if I have any reason to think there is any lack of confidence upon the part of the patient or family, I suggest that they call another physician; otherwise I often invite a medical friend to see grave or protracted cases with me without informing the family. Should I demand a consultation, of course the family have the right to say who the consulting physicians shall be.

A physician acquires, from practice and observation, a certain diagnostic skill that enables him frequently to arrive at a conclusion satisfactory to himself, that he would find it very difficult, if not impossible, to explain or impart to others.

#### CROSS-EXAMINATION.

The symptoms set forth by the statement of Mr. Peterson, seem to me to be incompatible with themselves, such as could not exist. If I were to diagnose a case from his hypothesis, I would not advise the use of ice.

#### EXAMINATION.

B. J. Baldwin sworn:

Am a physician; reside in Paris; have heard the state-

ments of Drs. Fort and Gibson, and approve the treatment throughout the case.

#### CROSS-EXAMINATION.

My diagnosis differ as to the priority of some of the symptoms. From the commencement of the attack until 3 o'clock p. m., on Sunday, the 30th of July, it was a well marked case of remittent fever, such as was prevalent at the time, and the malarial influence intensified in the child by the visit to Philadelphia, and having but recently returned home, and the damp unhealthy condition of the house from water standing in the cellar.

About the above mentioned hour a complication is presented, marked by a flushed face, head hot, cold and livid extremities, convulsions and dilated pupils. It was congestion hyperæmia of the brain. The convulsions, I think, were sympathetic, caused by the malarial poison in his blood—a local expression, such as we see in scarlet fever and other diseases. The formation of the temperament of the child—short neck, florid complexion and red hair, indicating a tendency to cerebral complications.

About two hours from the invasion of the convulsions another complication arises—a change comes over his features, a dull, sleepy expression, eyes insensible to the light, a higher temperature on left side than on right, and the pulse fuller in the left arm than in the right. This was paralysis, caused by hemorrhage of blood pressing upon the brain, and the hemorrhage resulted from the prolonged and severe convulsions. The cold and pallid condition of the hands and feet are symptoms of congestion of the brain.

Hamilton on Nervous Diseases, is an author that mentions it. I will read it to you:

“The insensibility of the eyes to light, and the difference in the temperature and pulse of the left from the right side, could be produced only by the blood forced out upon

the brain and pressing upon it, causing the paralysis."

Malarial fever at times, produces all of those symptoms—congestion of the brain, convulsions, hemorrhage and paralysis. I do not call it meningitis; it is true it existed, but it was from the blood pressing upon the brain and its membranes, and producing inflammation of them all—both meningitis and cerebritis, as those symptoms were secondary.

My diagnosis is, that it was a case of remittent fever, complicated by cerebral congestion, convulsions, hemorrhage, compression, paralysis and inflammation of the substance of the brain, cerebritis, and its membranes—meningitis.

The treatment of inflammation of the brain and its membranes is the same, no matter whether the cause is within the head or without, in a sympathetic form. The inflammation must be controlled or death will ensue. I would have done as Dr. Fort did. I have had such cases. Yes; I will mention one I had last October:

A little boy from eating a quantity of raw potatoes, had congestion of the brain, convulsions, hemorrhage, paralysis of his left side, and died within thirty hours from the commencement of the attack.

I have known but few children to recover from an attack approaching the severity of Mr. Peterson's child, and those have been mostly partial recoveries only—a wreck of former life.

I do not treat such cases as you mention, at all. For the reasons you give, they are so common and mild that a doctor is never sent for. I can't treat them without being sent for or consulted.

I except the oral statement and deposition of Mr. Peterson as an imperfect description of his child's sickness and train of symptoms, as extending over such a wide range, so much latitude, that I am compelled to exercise my discretion before forming an opinion.

My diagnosis and treatment, based upon all the evidence of the defense and his witnesses, would not be changed at all, from my diagnosis and treatment already given.

It is not the profession of Mr. Peterson, or any of his witnesses who saw the child when sick, to scrutinize diseases and describe their symptoms, consequently, we have to accept their statements accordingly; and to analyze said statements, my diagnosis is the same given by plaintiff, viz: fever, flushed face, hot head, cold hands and feet, congestion of the brain, convulsions, difference in temperature and in pulse on left from right side, and peculiar expression of face, which is paralysis from hemorrhage on the brain; consequently, the treatment is the same. I would use forty pounds of ice to the head if a less amount failed to cool, and warmth to the body and extremities. Yes; if you call that pressing the blood out of the head, then I would freeze it out.

The apparent improvement Monday morning, July 31st, was from the abatement of the nervous shock, resulting from the congestion, convulsions and compression from the hemorrhage on the substance of the brain.

Yes, I can give and read to you authority. Flint for one. I do not accept Wood as authority, now. You state his work was published as late as 1842. That will make it thirty-seven years old. We do but few things now as was done then. There are lucid intervals and temporary abatement of symptoms, although the patient dies. I will read you authority, now, for it. It is not generally the case that patients lay in a state of coma for days and die without some lucid moments or intervals.

Mr. Hodges, I can't give you an opinion upon a few words detached from a sentence. I will give you my opinion, but first read the sentence.

Please read the entire sentence. You have omitted an important word—he "seemed."

I can find it there if you will hand me the deposition.

You have read it correctly now.

There is no contradiction sir; Dr. Fort is right; that is my opinion and answer—the last clause of the sentence you have just read with so much reluctance.

EXAMINATION.

Dr. Rush sworn :

I am a practicing physician in Paris, Texas; I have heard Dr. Fort's statement in this case, also Dr. Gibson's; think their treatment was correct.

CROSS EXAMINATION.

I base my opinion on the supposition that the hypothetical case of Dr. Fort is true; my opinion in regard to the case is nearly similar to what has been stated before by others—that is, it was a case of a remittent type of fever, attended with more or less congestion of the brain, and that the convulsions were eccentric—that is, they arose from a blood-poison, malaria, and excited by a full stomach and constipated bowels; after this I think the disease became centric; whether it was a disease of the brain itself or its coverings, or both, I am unable to tell, though I believe it to be a case of meningitis consequent upon a clot of extravasated blood, and subsequent effusion, as characterized by the train of symptoms that followed—such as dilated pupils, unilateral pulse and temperature, as well as the result of the treatment.

Have heard the statements of Mrs. Birmingham, Peterson, and others, and could not endorse Dr. Fort's treatment, if their statements are true.

RE-DIRECT-EXAMINATION.

It occurs to me that I should not have persisted in the use of ice; the case was insensibly fatal any way; it was proper to keep the child's body and extremities warm, and head cold; the treatment did not, in my opinion, kill the child.

## RE-CROSS-EXAMINATION.

I have known of cases in which ice has been applied for 27 consecutive hours; it is recommended by standard authorities; Wood is a little antiquated in his views; Meigs & Pepper, West and Hamilton, are standard authorities; standard authors prescribe no infallible rule to govern physicians in their practice of medicine; I understand by "the judicious use of ice," to use it as I would see proper; by the symptoms that presented themselves, the child could have recovered, although the ice remained on his head; it is not probable that I would have mistaken the disease; I believe that the child had meningitis, with effusion of blood, as stated before; upon general principles, stimulants should be given in extreme cases—as this; I should have given stimulants, especially had I regarded the case as Dr. Fort did.

Authorities do not recommend stimulants only in the last stages of meningitis. Old physicians have Wood's practice in their libraries; there are many more valuable works for physicians to buy. That Hamilton and many other writers follow Wood, I do not deny, but there are many better and more approved works. I do not regard Wood as not being authority; I have it, and sometimes refer to it.

## SECOND RE-EXAMINATION.

As long as the child's head remained hot, I would have administered those remedies; all of this for the purpose of preventing a return of the convulsions.

## EXAMINATION.

Dr. Ryan sworn :

I have been practicing medicine something over forty years; I regard the treatment as given, according to Dr. Fort's statement, as eminently judicious.

## CROSS-EXAMINATION.

My opinion is based on Dr. Fort's statement.

## EXAMINATION.

Dr. Alston sworn :

Have been practicing medicine 19 years; I regard Dr. Fort's treatment as proper.

## CROSS-EXAMINATION.

I base my opinion on the truth of Dr. Fort's written statement.

Plaintiff closes.

Argument of counsel.

Case submitted.

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 CHARGE OF THE COURT.

J. M. FORT  
 vs.  
 R. PETERSON. }

The plaintiff sues to recover of defendant, damages for certain publications alleged by him to be libellous, and to have been published by defendant in a certain newspaper conducted by the latter.

Defendant for answer denies all the allegations in plaintiff's petition, and pleads by way of justification, that the charges made in the publications are true.

Every publication, in writing or in print, imputing to another, disgraceful or fraudulent or dishonest conduct, or which is injurious to the credit of a tradesman or the professional business of another, is libellous, and subjects the

party who publishes it to an action of damages at the suit of the injured party. This is, however, subject to this qualification: that in the eye of the law, the truth injures no man; and hence, if the publications are true, it is justifiable, and no action can be maintained upon it.

I, therefore, charge you gentlemen of the jury, that if you believe, from the evidence adduced before you in this case, that the plaintiff, in 1876, was a practicing physician, and that defendant published of and concerning the plaintiff, the newspaper articles copied in his petition, and annexed to and made a part of such petition, you will find a verdict for plaintiff, unless you find that the facts stated in said publications are untrue.

In the first instance, it is incumbent upon the plaintiff, under the state of the pleadings in this case, to prove the fact of the publication of the alleged libellous matter; but when that fact is established, then the burden of proof is upon the defendant to establish his plea of justification. Hence, if you believe, from the evidence, that the facts stated in the newspaper articles, as to the treatment and cause of death of the child, are substantially true, as alleged in defendant's plea of justification, you will find a verdict for the defendant. You are the judges of the credibility of the witnesses and of the weight to be given to the testimony.

If you find a verdict for plaintiff, you will assess his damages at a sufficient sum to compensate him for such loss as you may believe, from the evidence, he has sustained by reason of the publications; and, if you further believe, from the evidence, that in making the publication defendant was impelled by actual malice—that is, that he was actuated by enmity or ill will against plaintiff—you may also award exemplary damages to plaintiff. That is to say, you will not be confined to the actual damages, but go beyond that and award damages by way of punishment

and example. But you can, in no event, exceed the sum claimed in plaintiff's petition, to wit: thirty thousand dollars.

The publication offered in evidence, which was made after the institution of this suit, and consisting of extracts from legal authors upon the subject of malpractice, by physicians, I now think was erroneously admitted in the evidence before you. I therefore, now exclude it from the evidence, and instruct you not to regard it in making up your verdict.

In deciding the issue presented to you, you will weigh the evidence and decide according to its preponderance.

If you find for plaintiff, let the form of your verdict be: "We, the jury, find for plaintiff, and assess his damages at the sum of——dollars," stating the sum.

If you find for defendant, let your verdict simply say so.

R. R. GAINES, Judge.

Cause submitted to the jury. After a deliberation of three days they failed to agree, and were discharged by the court.

The case appears, *de novo*, at the next term of the district court.





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The publication offered in evidence, which was made after the institution of this suit, and consisting of extracts from legal authors upon the subject of malpractice, by physicians, I now think was erroneously admitted in the evidence before you. I therefore, now exclude it from the evidence, and instruct you not to regard it in making up your verdict.

In deciding the issue presented to you, you will weigh the evidence and decide according to its preponderance.

If you find for plaintiff, let the form of your verdict be: We, the jury, find for plaintiff, and assess his damages at the sum of ——— dollars, with the usual interest.

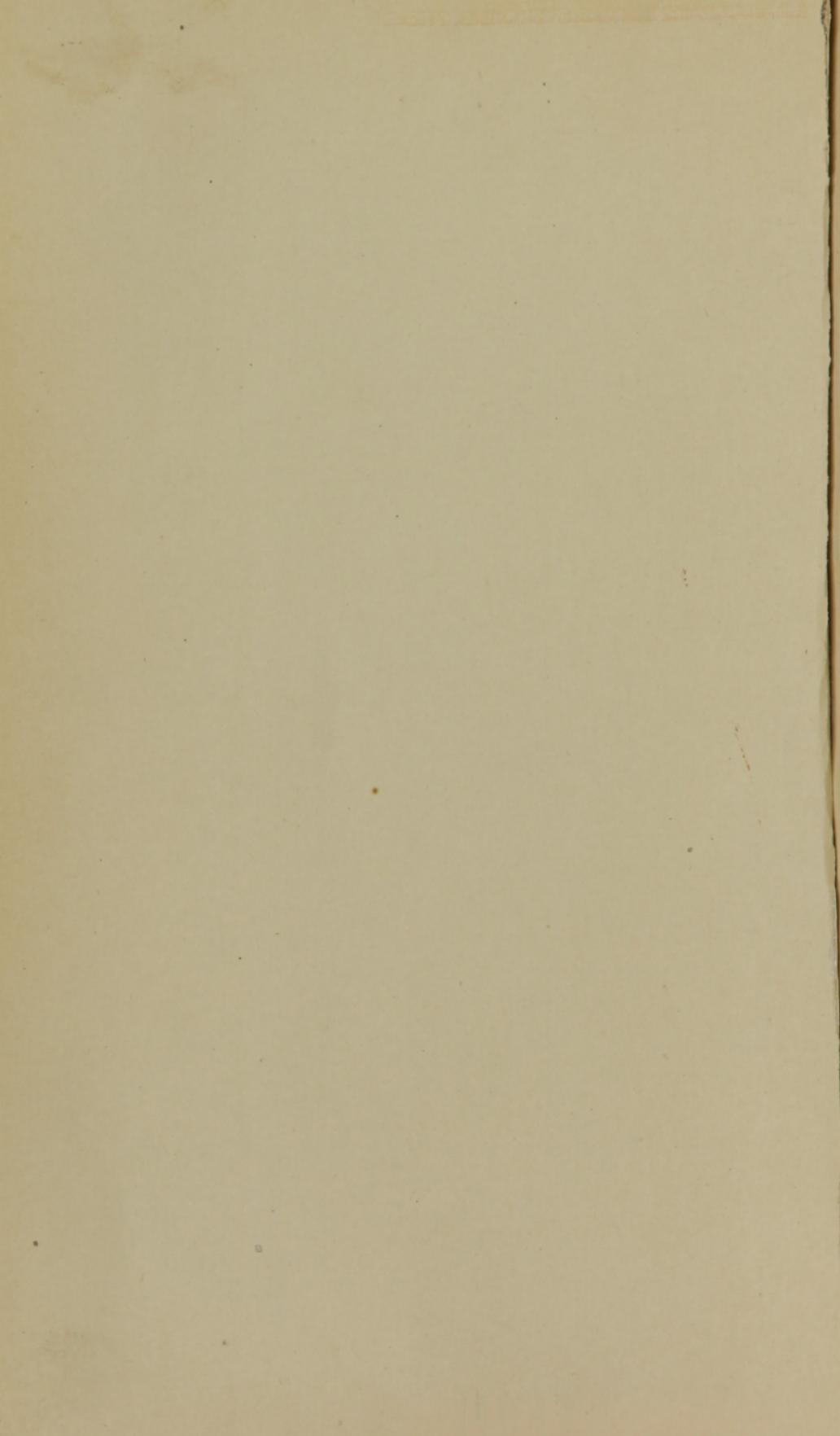
If you find for defendant, let the form of your verdict be: We, the jury, find for defendant, and assess his damages at the sum of ——— dollars, with the usual interest.

H. B. GILLES, Judge.

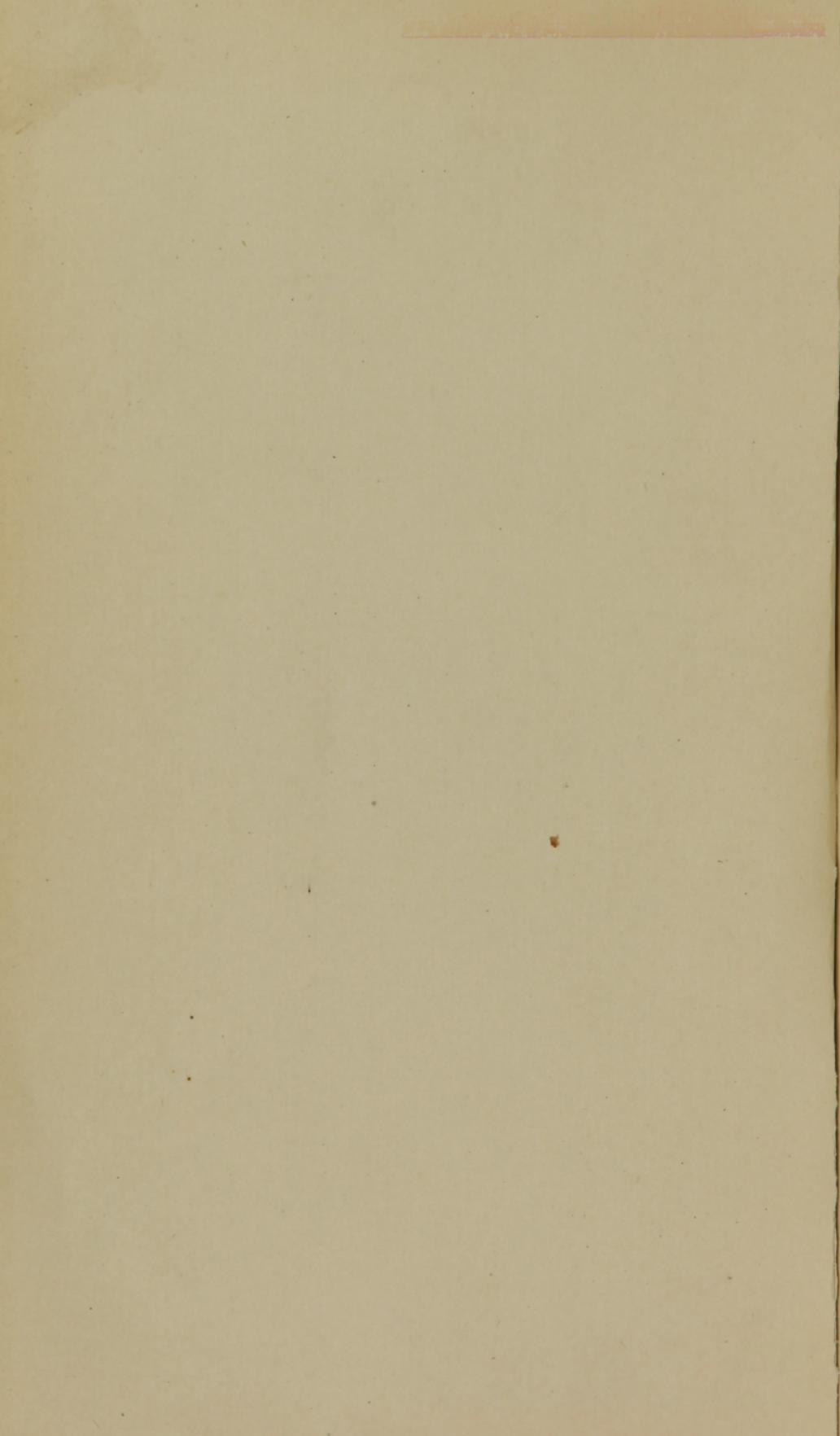
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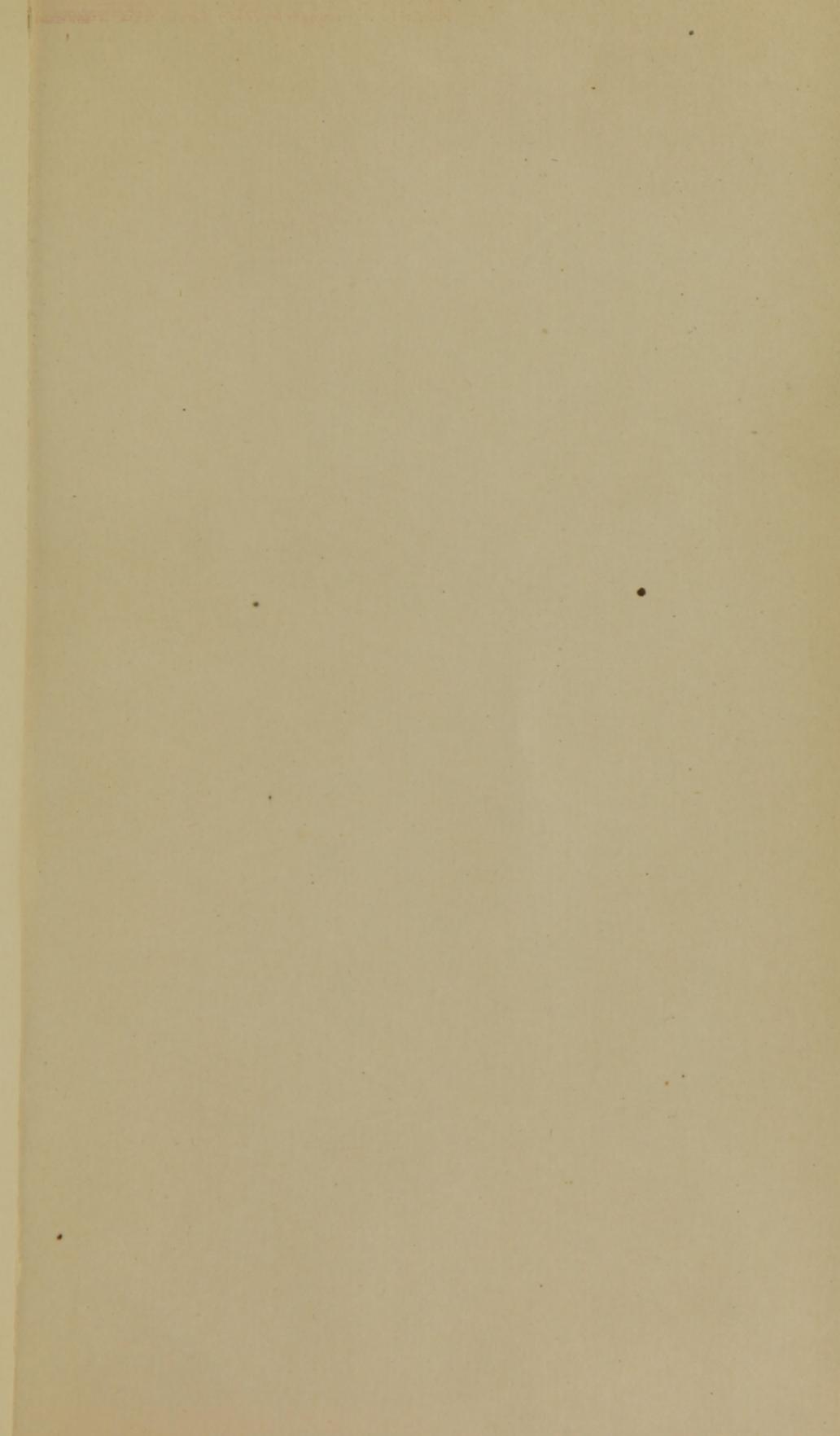
The case appears to have, at the next term of the district court.

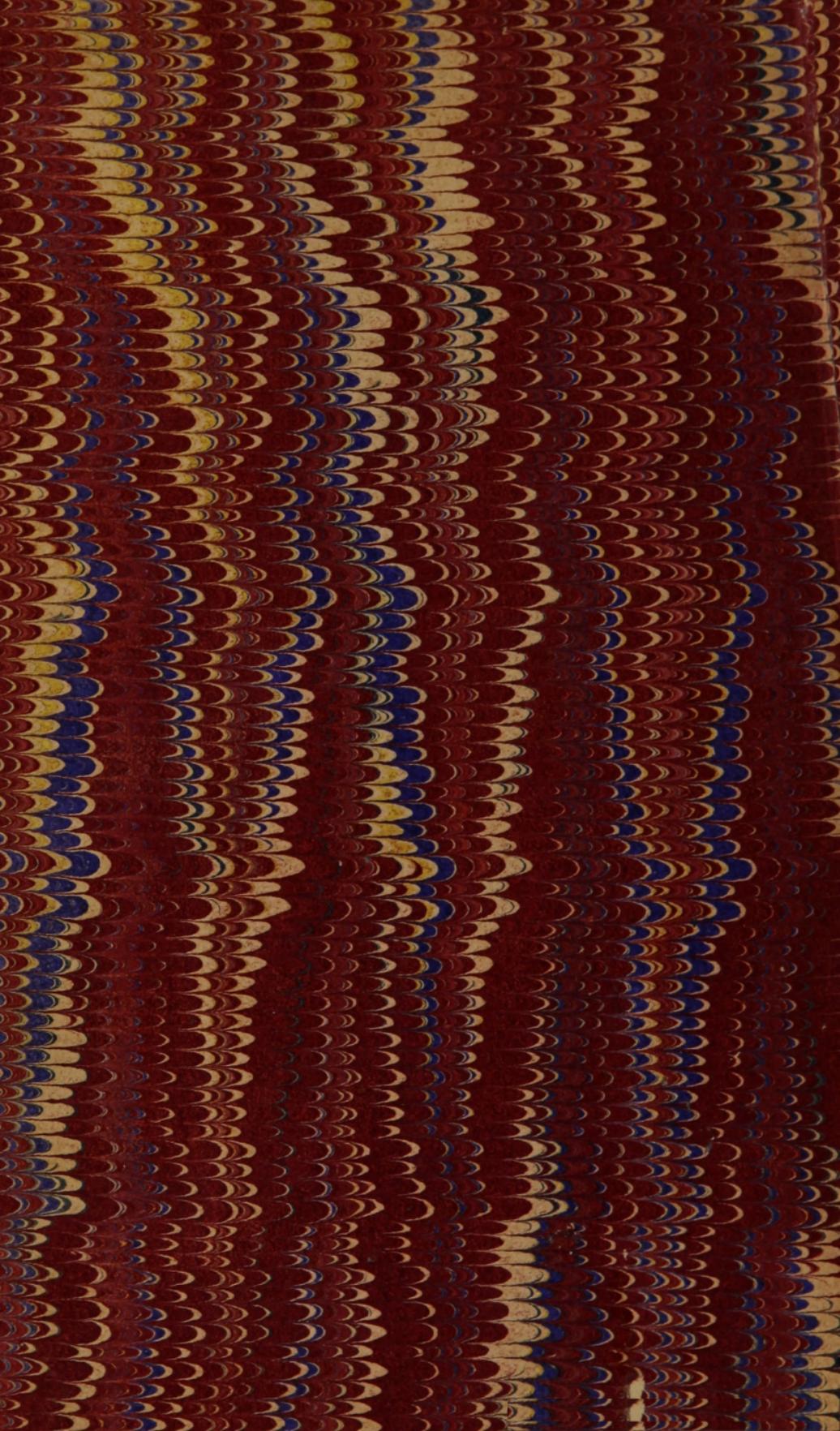


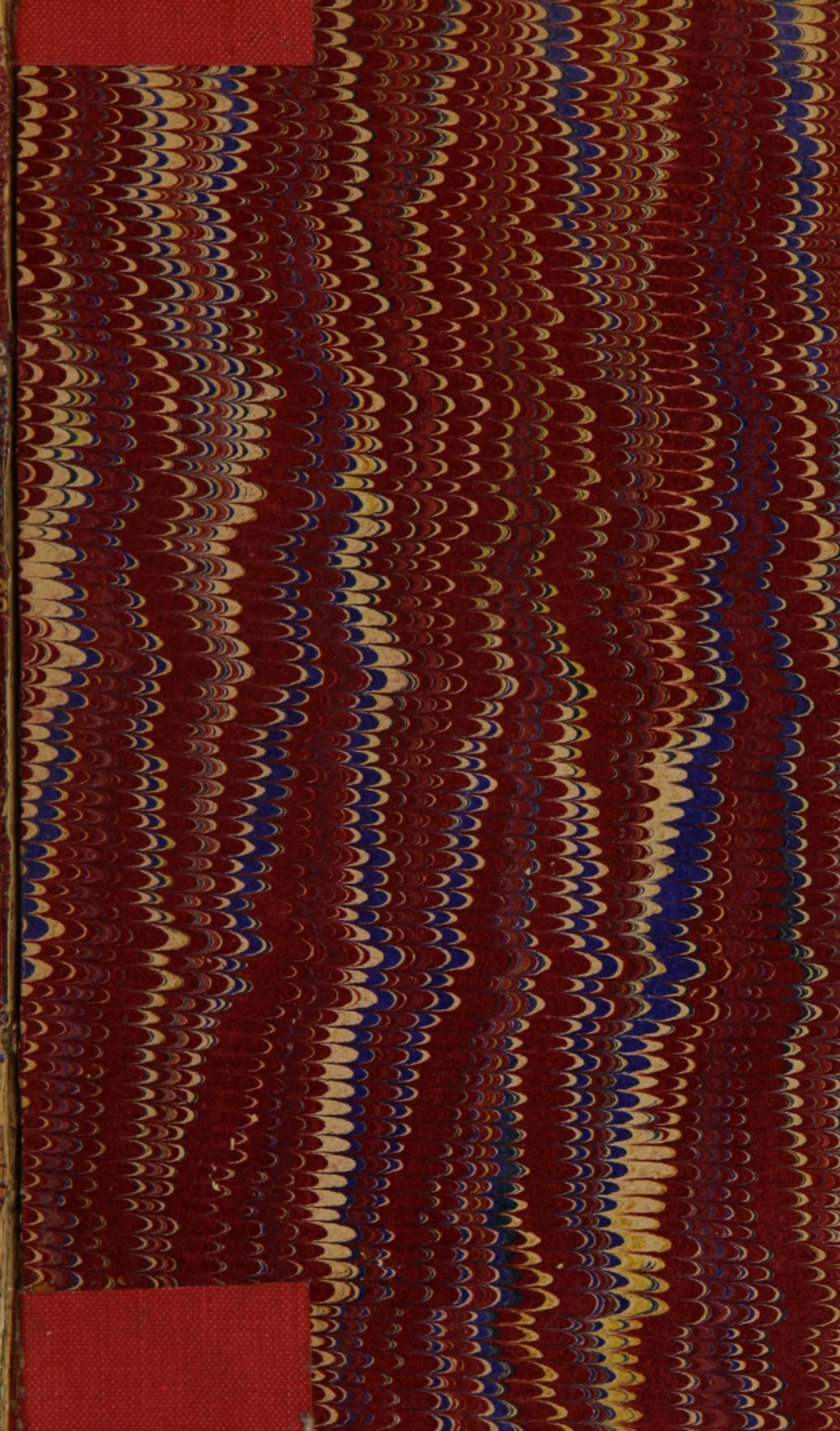












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